

## **CHAPTER 5. MUNICIPAL REGULATION AND LICENSING**

### **Part 1. General Licensing and Permit Provisions**

#### **501.01 LICENSES AND PERMITS**

Subd. 1. General Rule. Except as otherwise provided in this code, all licenses and permits granted by the city shall be governed by the provisions of this part.

Subd. 2. Acts Prohibited. No person shall conduct any activity or use any property for which a license or permit is required by law or this code without a currently valid license or permit for such activity or use.

Subd. 3. Application. Every application for a license shall be made to the clerk on a form the clerk provides. It shall be accompanied by payment to the clerk of the prescribed fee. If, after investigation, the clerk is satisfied that all requirements of law and this code have been met, the clerk shall present the application to the council for action or, if the license or permit does not require council approval, the clerk shall issue the license or permit.

#### **501.02 NOT TRANSFERABLE**

No license issued by the city may be transferred from one person to another without permission of the council.

#### **501.03 REVOCATION**

Any license may be revoked by the council for a violation of the section or chapter under which it is issued. However, the revocation must follow any procedure provided in the section or chapter in question.

#### **501.04 APPEAL**

Any person who has made application which has been denied or not acted upon within 30 days after the application may apply directly to the council for a license. The application to the council shall contain the same information required in the original application, plus any additional information that the council may require or that the applicant may feel is pertinent. The council may grant the license, after hearing, if the requirements of this code are substantially complied with, and in the opinion of the council granting the license would be in the best interests of the public.

## **Part 2. Tobacco Licenses and Enforcement**

### **502.01 LICENSE AND ENFORCEMENT**

The city hereby adopts by reference the County of Chisago ordinance for licensing and enforcement relating to the sale, possession, and use of tobacco, tobacco products, and tobacco related devices in the city.

### **Part 3. Adult Establishments (10-2006)**

#### **503.01 FINDINGS AND PURPOSE**

A study conducted by the Minnesota Attorney General has examined the impact that sexually orientated establishments have in cities in Minnesota and throughout the country. This study concluded that adult establishments have an adverse impact on surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the City Council concludes:

A) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

B) Adult establishments have adverse secondary impacts of the types set forth above.

C) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by location requirements, licensing requirements and health requirements.

D) It is not the intent to prohibit adult establishments from having a reasonable opportunity to locate in the city.

#### **503.02 DEFINITIONS**

For the purpose of this chapter only, the words and phrases below are defined as follows:

1. **Adult Establishment.** A business engaged in any of the following activities or which utilizes any of the following business procedures or practices:

A) A business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation or law or by the owners of such business.

B) Any business that has a substantial or significant portion of its floor space that is characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specific sexual activities or specified anatomical areas.

An adult establishment includes, but is not is not limited to, any adult use as defined in this chapter.

2. **Adult Use.** An adult use is any of the activities and businesses described below:

A) Adult Body Painting Studio. An establishment or business, which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas.”

B) Adult Bookstore. A building or portion of a building over 50 square feet used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “ specified anatomical areas.”

C) Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas.”

D) Adult Companion Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

E) Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

F) Adult Health/Sport Club. A health/sport club, which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

G) Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

H) Adult Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “ specified sexual activities” or “specified anatomical areas.”

I) Adult Mini-Motion Picture Theater. A building or portion of a building with a

capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

J) Adult Modeling Studio. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

K) Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

L) Adult Motion Picture Theater. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on “specified sexual activities’ or “specified anatomical areas” for observation by patrons therein.

M) Adult Novelty Business. A business, which has a principal activity the sale of devices, which stimulate human genitals, or devices, which are designed for sexual stimulation.

N) Adult Sauna. A sauna which excludes minors by reason of age, or which provide a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities’ or “specified anatomical areas.”

O) Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for purposes of pleasure, bathing or relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

### 3. Specified Anatomical Areas.

A) Less than completely and opaquely covered genitals. Public region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and

B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

4. Specified Sexual Activities.

A) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-orientated acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

B) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

C) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or

D) Fondling or touching of nude genitals, public region, buttocks or female breast; or

E) Situations involving a person or person, any of whom are nude, clad in undergarments or in a sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fetting, binding or other physical restraint of any such persons; or

F) Erotic or lewd touching, fondling or other sexually-orientated contact with an animal by a human being; or

G) Human excretion, urination, menstruation, vaginal or anal irrigation.

5. Substantial or Significant. For purposes of this section, the phrase “substantial or significant” means that at least 10 percent of the portion of the floor area of the business, or 20 percent of the gross receipts of the business (not including storerooms, stock areas, bathrooms, basement or any portion of the business not open to the public) is devoted to items, merchandise or other material that is distinguished or characterized by an emphasis on the depiction or description of “specific sexual actives” or “specified anatomical areas.”

503.03

**LOCATIONS**

Adult establishments shall be located only in districts zoned Light Industrial and

shall be located at least 1500 feet radial feet from Highway 8 and at least 300 radial feet as measured in a straight line from the closest point of the building line of the property upon which the adult establishment is located, to the property line of:

- A) Residentially zoned property.
- B) A licensed day care center.
- C) A public or private educational facility classified as an elementary, junior high or senior high.
- D) A public park.
- E) A church.
- F) Movie Theater.
- G) The Central Business District.
- H) Commercial District.
- I) Community Center.

503.04

**LICENSE REQUIRED**

No person, firm or corporation shall own or operate an adult establishment without having first secured a license as provided for in this chapter.

Subd. 1 Applications. The application for an adult establishment license shall be submitted on a form provided by the city and shall include:

- A) The name, residence, phone number and date of birth of the applicant, if an individual; and if a corporation, the names, residences, phone number and birth dates of those owners holding more than 5 percent of the outstanding stock of the corporation;
- B) The name, address, phone number and date of birth of the manager of such operation, if different from the owners;
- C) The address and legal description of the premises where the adult establishment is to be located;
- D) A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant, or in the case of a corporation, the owners of more than 0 percent of the outstanding stock

of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license for a similar type of business in other communities;

E) The activities and types of business to be conducted;

F) The hours of operation, shall be limited to *Monday thru Saturday 10 a.m – 10 p.m.*,

G) The provisions made to restrict access by minors;

H) A building plan of the premises detailing all internal operations and activities.

#### Subd. 2 License Fees.

A) Each application for a license shall be accompanied by a receipt from the city for payment in full for the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any applications for a license, the Finance Director shall refund the amount paid.

B) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

C) The annual license fee for adult establishments shall be \$3,000.00 and may be set from time to time by City Council resolution.

D) No part of the fee paid for any license shall be refunded except in the following instances upon application to the City Council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the license business ceases not less than one month before expiration of the license because of:

1) Destruction or damage of the licensed premises by fire or other catastrophe;

2) The licensee's illness;

3) The licensee's death;

4) A change in the legal status making it unlawful for the licensed business to continue.

#### Subd. 3 Granting of License.

A) The city council, or such persons as they shall designate, shall complete their investigation within 30 days after the city council administrator receives a complete application and all license investigative fees.

B) If the application is for a renewal, the applicant shall be allowed to continue business until the City Council has determined to renew or refuse to renew a license.

C) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this subsection, then the license shall be issued by the City Council within 30 days after the investigation is complete. Otherwise, the license shall be denied.

D) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation a change in identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this subsection shall be required to obtain an annual license.

E) An applicant for any license under this section shall deposit with the city at the time an original application is submitted, \$500.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. If the investigation and verification process is conducted outside the state of Minnesota, the city may require the actual investigation costs not exceed \$1,500.00.

Subd. 4 Persons Ineligible for License. No license shall be granted or held by any person:

A) Under 18.

B) Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or adult establishments.

C) Who is not the proprietor of the establishment for which the license is issued.

Subd. 5 Places Ineligible for License.

A) No license shall be granted for adult establishments on any premises where the owner or the applicant has been convicted of a violation of this chapter, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.

B) Except for uses lawfully existing at the time of this ordinance adoption, no license shall be granted for any adult establishment, which is not in compliance with the city's zoning regulations. Light Industrial District.

Subd. 6 Conditions of License.

A) Every license shall be granted subject to the following conditions and all other provisions of this chapter, and of any applicable sections of the code of the city or state law.

B) All licensed premises shall have the license posted in a conspicuous place at all times.

C) No minor shall be permitted on the licensed premises, under 18.

D) Any designated inspection officer for the city shall have the unqualified right to enter, inspect and search the premises of a licensee during busier hours.

E) Every licensee shall be responsible for the conduct of his/her place of business and shall maintain conditions of order.

Subd. 7 Additional Conditions for Adult Cabarets. In addition to all other conditions set forth in this ordinance, the following conditions apply to adult cabarets:

A) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude, in such a way as to expose specific anatomical areas.

B) No dancer, live entertainer, patron or any other person shall expose specified anatomical areas in an adult cabaret.

C) The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The persons' name, home address, home telephone number, date of birth and any aliases.

D) No dancer, live entertainer or performer shall be under 18 years old.

E) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.

F) No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.

G) No dancer or performer shall fondle or caress any patron and no patron shall

fondle or caress any dancer or performer.

H) No patron shall pay or give any gratuity to any dancer or performer.

I) No dancer or performer shall solicit any pay or gratuity from any patron.

Subd. 8 Sign Restrictions.

In order to protect children from exposure to lurid signs and material and in order to preserve the value of property surrounding sexually orientated businesses, the following sign regulations shall apply to all establishments subject to this ordinance, in addition to all other regulations contained in Chapter 903.

A) All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages. No sign shall contain any message or image, which identifies specified sexual activities or specified anatomical areas as defined herein.

B) The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, not to exceed eighty square feet.

C) No merchandise, photos or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually orientated business is located.

D) No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adult only.

Subd. 9 Penalty.

A) Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor prescribed by law.

B) Any violation of this chapter shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within 30 days of the notice.

C) The City Council shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice,

whichever is sooner, and shall notify the licensee of its decision within that period.

503.05

**SEVERABILITY**

The provisions of this ordinance shall be severable. If any provision is found to be void, the remaining provisions of the law shall remain valid, unless the court finds the valid provisions of the law are so essentially connected with the void provisions that the court cannot presume the Council would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone are incomplete and incapable of being executed in accordance with the legislative intent.

## **Part 4. Peddlers**

### **504.01 LICENSE REQUIRED**

No solicitor, peddler, hauler, or transient vendor of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants shall enter a private residence of the city for the purpose of soliciting orders for the sale of goods, wares, and merchandise, or for the purpose of disposing of or peddling or hauling the same, without first obtaining a license therefor.

### **504.02 APPLICATION**

Before any license shall be issued to any person to vend, sell, hawk, or peddle goods, the person desiring such license shall file a written application with the clerk. Said application shall show:

- a. The name of the applicant and the persons associated with the applicant in the business;
- b. Type of business for which the license is desired;
- c. The length of time for which said license is to be desired;
- d. A general description of the thing or things to be sold;
- e. The present place of business of the applicant.

### **504.03 ISSUANCE FEE**

Every application for a peddler's license under this Part and Chapter is subject to review and approval by the city clerk after an investigation of the applicant. When the applicant presents to the clerk an application in proper form for any business not prohibited by law, the applicant shall pay a fee of the amount as set forth in the fee schedule to cover the cost of said application. The city council shall have the discretion to waive or reduce the fee for community events when the applicant is an organized community civic group. (09-2005)

### **504.04 EXCLUSION BY PLACARD**

Any resident of the city who wishes to exclude peddlers or solicitors from premises the resident occupies may place upon or near the usual entrance to such premises, a

printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." Such placard shall be at least three and three-quarters inches long and three and three-quarters inches wide and the printing thereon shall not be smaller than 48-point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained.

504.05

**DEFACING PLACARD**

No person other than the person occupying such premises shall remove, injure, or deface such placard or sign.

## **Part 5. Garbage and Rubbish**

### **505.01 PURPOSES**

In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of this city and in order to protect the area from the problems of uncoordinated, unsanitary, and improper solid waste disposal, the council hereby determines that it is in the best interest of the residents of the city to require licenses of persons collecting and/or hauling garbage and rubbish for hire, reserving to the city the right and authority to grant an exclusive refuse collection franchise to a single operator.

### **505.02 LICENSE REQUIRED**

No persons may collect or haul garbage or rubbish within the city without first obtaining a written license, therefore, from the council. An application for license shall be submitted in writing to the city clerk, and shall contain the following information:

- a. Name and address of the applicant;
- b. Description of the equipment, which will be used within the city by the applicant;
- c. A schedule of the rate that will be charged by the applicant for the various categories of customers within the city;
- d. Evidence of compliance with the other applicable sections of this chapter.

The application for a license shall be accompanied by the license fee as set forth in the current fee schedule, which shall be refunded if the license were denied. The annual fee will be the amount herein stated. Application for renewal of a license shall be submitted in writing to the clerk on or before December 1 of each year, and shall contain the information required by the initial application for a license, as stated above. Licenses shall be for a term of one year commencing January 1 of each year, but may be issued on a pro rata basis.

505.03           **GARBAGE AND RUBBISH DEFINED**

For the purpose of this part, garbage and rubbish are defined to include garbage and rubbish of all kinds that accumulate in the ordinary operation of a household, grass trimmings, ashes, tree branches, leaves, and other refuse small enough to go into a 20-gallon garbage can.

505.04           **FRANCHISE**

The council may exercise its reserved right to provide for a franchise to a single operator for the collection of garbage and rubbish within the city.

505.05           **SUSPENSION OF LICENSE OR FRANCHISE**

A franchise or license issued under the provisions of this part may be revoked or suspended for a violation of this part or other applicable regulations of law, upon a showing that the franchisee or licensee has failed to comply with the same.

505.06           **FINANCIAL RESPONSIBILITY**

The licensee or franchisee shall show financial responsibility or a certificate of insurance coverage prior to obtaining the license or franchise whereby each vehicle to be used by said licensee or franchisee shall be covered against loss or injury in the following amounts: \$200,000 when the claim is one for death by wrongful act or omission and \$200,000 to any claimant in any other case; \$600,000 for any number of claims arising out of a single occurrence. Said licensee or franchisee shall also provide evidence of worker's compensation insurance for employees. Such insurance policy shall be for the full term of the license or franchise and shall provide for the giving of 10 days prior notice to the city of the termination or cancellation of said policies. In case any of said policies are terminated, the license or franchise shall be automatically revoked upon receipt by the clerk of said termination or cancellation.

505.07           **DESIGN OF EQUIPMENT**

All trucks or motor vehicles used by the licensee or franchisee shall be watertight so as not to allow the leakage of liquids or refuse while hauling the same and shall be covered with a metal covering to prevent the scattering of its contents upon the public streets or private properties in the city.

505.08        **INSPECTION**

All vehicles used for garbage or rubbish shall be made available for inspection within the city at such times and places as the council shall designate.

505.09        **BOND**

The franchisee or licensee(s) may be required to furnish a surety bond in such amount as the council deems necessary running to and approved by the council, guaranteeing the franchisee's (licensee) faithful and continuous performance of the terms of the franchise, license, or contract and of this ordinance.

505.10        **METAL AND PLASTIC CANS**

Every household or occupant of any dwelling, residential duplex or manufactured home, having garbage to dispose of shall provide one or more fly-tight metal or plastic cans sufficient to receive all garbage which may accumulate between collection times, unless other sanitary disposal arrangements have been made. Business and multiple residential dwellings, not including duplexes, shall be allowed to use covered dumpsters, which shall have sufficient capacity to allow the cover to stay closed at all times.

505.11        **ACCUMULATIONS**

No person shall fail to dispose of in a sanitary manner garbage and rubbish accumulated upon property the person owns or occupies.

505.12        **DUMPING**

All garbage and rubbish accumulating between the times of collection shall be placed and stored in approved cans or containers.

505.13        **CONTAINER PLACEMENT**

Garbage cans shall be accessible to collectors at all reasonable times and shall be kept in the upright position at all times. (07-2009).

505.14        **EXCEPTIONS FOR TEMPORARY CONTAINERS**

The requirement for a license under this chapter shall not apply to temporary roll-off dumpsters used for construction debris or other similar, one time uses. "Temporary" shall be defined as a period not to exceed 90 days

## Part 6. Dogs, Cats, and Other Animals

506.01

### DEFINITIONS

As used in this part, the terms shall mean the following.

- a. Owner. Any person, group of persons, or legal entity owning, keeping, or harboring a dog or dogs, cat or cats, or other animals.
- b. Harborer. The harboror of a dog or cat shall be any person who has custody of any dog, cat or other animal or permits a dog, cat or other animal to be kept or to stay on or about the harboror's premises.
- c. At Large. A dog shall be termed at large when it is not under restraint, as defined herein.
- d. Restraint. A dog is under restraint if it is controlled by a leash not exceeding eight feet in length or if it is within the boundaries of the owner's or harbor's premises. (07-2010)
- e. Police. The maintenance person or police officers of the city, or any person, firm, or agency hired or engaged by the city to assist the police in the performance of their duties.
- f. *(the following definitions were added to code September 2018)*  
Domestic Animals. Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds kept inside the home, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous, and non-constricting reptiles or amphibians, and other similar animals.
- g. Farm Animals. Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, donkeys, mules), bovine family (cows, bulls, bison), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribou, mule deer), llamas and alpacas, and other animals associated with a farm, ranch, or stable.
- h. Non-Domestic Animals. Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and

welfare of people. Unless otherwise defined, non-domestic animals shall include:

1. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards, jaguars, ocelots, and servals, but excluding commonly accepted domesticated house cats.
2. Any naturally wild members of the canine family (family canidae) including wolves, foxes, coyotes, dingos, and jackals, but excluding commonly accepted domesticated dogs.
3. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated pet.
4. Any member or relative of the rodent family, skunk family (whether or not de-scented), weasel family, and raccoons, unless proven that they are domesticated pets.
5. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families, including rattle snakes, water moccasins, boa constrictors, pythons, anacondas, cobras, pit vipers, crocodiles, and alligators.
6. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, and non-human primates

#### 506.02 **LICENSING**

No person shall own, keep, or harbor a dog or cat unless such dog or cat is licensed as provided herein.

#### 506.03 **LICENSE APPLICATION**

Written application shall be made in writing at the office of the clerk. The application shall state the name and address of the owner of the dog or cat, the name, breed, age, sex, and color of the dog or cat, and be accompanied by a certificate of vaccination from a qualified source certifying that the dog or cat has been vaccinated against rabies, or has received a booster shot therefore, within the 24-month period immediately preceding the application.

506.04        **LICENSE FEE**

The annual license fee shall be the amount as set forth in the fee schedule for each dog or cat. The license fee shall be paid at the time of making the application.

506.05        **TERM OF LICENSE**

All dog or cat licenses shall be issued for one year beginning with the first day of January of each year. Application for license may be made 30 days prior to the first day of January of each year. A permit must be obtained within 30 days for any dog or cat brought into and kept in the city after June 1 of each year.

506.06        **DOGS AND CATS NOT REQUIRING LICENSING**

No license shall be required of dogs and cats less than six months of age.

506.07        **TAG AND COLLAR**

All dogs and cats shall be harnessed or collared. The clerk shall upon issuance of a license provide the applicant with a metallic tag, which shall be dated and numbered, and which shall be securely fastened to the animal's collar or harness at all times.

506.08        **RESTRAINT OF DOGS**

No dog shall be permitted to be at large in the city. All dogs shall be under restraint at all times.

506.09        **CONFINEMENT OF CERTAIN ANIMALS**

The owner or harbinger shall confine within a building or secure enclosure any fierce, dangerous, or vicious dog or cat, and not permit such animal out of such confinement unless and until it is securely muzzled and in control of a competent person.

506.10        **ANIMALS CREATING NUISANCE PROHIBITED**

No person shall keep or harbor an animal, which barks or howls, or otherwise

constitutes a nuisance.

506.11 **IMPOUNDING ANIMALS**

The police, or any other duly appointed person, may take and impound any animal which is not being kept, confined, or restrained in a manner consistent with the requirements of this regulation. Such police or person may enter upon private premises where it appears that there is reasonable cause to believe that an animal is not being kept, confined, or restrained as herein required.

506.12 **NOTICE TO OWNER**

Immediately upon the impounding of an animal wearing a current license tag, the city clerk shall make every reasonable effort to notify the owner or harbinger of such impoundment, and of the conditions whereby the owner or harbinger may regain custody of the animal. Verbal notice shall be immediately confirmed in writing by the city clerk.

506.13 **RECLAIMING IMPOUNDED ANIMAL**

Any animal impounded hereunder may be reclaimed by the owner or harbinger of same within five days after receiving notice of such impoundment, excluding Saturdays, Sundays, and legal holidays, upon payment to the clerk of an impounding fee of \$15 together with the actual costs incurred for boarding. If the animal being reclaimed has no license, and a license is required, a license shall be issued, and the fee for same paid prior to the release from impoundment.

506.14 **DOGS WHICH CANNOT BE IMPOUNDED**

If an animal is rabid, or otherwise diseased, vicious, or dangerous, and cannot be impounded after a reasonable effort or without serious risk to the impounder or others, such animal may be immediately killed.

506.15 **SELLING OF IMPOUNDED ANIMALS**

If an animal taken up and impounded has not been reclaimed within the time provided herein, or if the owner cannot be located, then within five days, the person in charge of the pound shall give three days notice of the time and place where said animal will be sold by posting notices in the office of the person in charge of the pound, the office of the clerk, and in a conspicuous place at the pound. Should the

person in charge of the pound be unable to sell said animal, for want of bidders or otherwise, that person cannot sell such animal thereafter and without notice or to otherwise dispose of it.

506.16      **RABIES SHOTS REQUIRED; PENALTIES FOR VIOLATION**

It shall be unlawful for any person to own, possess, or harbor a dog within the city, if the dog has not had a vaccination for rabies within the time required under standard veterinary practices.

506.17      **DOGS IN HEAT**

Any female dog in heat shall be kept confined indoors, or impounded for the duration of her season (Oestrus cycle) in a commercial dog kennel, the cost of which shall be borne by the owner.

506.18      **BITING DOGS TO BE QUARANTINED**

Whenever any dog has bitten a person, the owner or custodian of such dog or animal, having been so notified, either orally or in writing, shall immediately quarantine said dog or animal at the owner's home or other suitable place of confinement, as directed by the responsible officer of the city for a period of 14 days after the occurrence. During the quarantine period, the animal shall be securely confined in a building or in a yard enclosed by a fence so constructed that the animal cannot escape or otherwise leave said enclosure, and which will not permit other animals or persons to enter, for the purpose of preventing the animal from biting or otherwise coming in contact with persons or other animals. Upon a reasonable suspicion that the dog may be rabid, the dog shall be subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies. The confinement, testing, treatment, in addition to all other expenses incurred as the result of a dog biting a person shall be the expense of the owner of said animal.

506.19      **CATS OR ANIMALS OF ALLIED GENERA**

It shall be the obligation and responsibility of the owner of any animal of this class to prevent such animal from molesting, defiling, or destroying any property, public or private.

It shall be unlawful for any owner of an animal of this class to permit or allow said animal to roam or engage in activities which otherwise constitute a nuisance.

506.20

**CERTAIN ANIMALS REGULATED (Sept 2018)**

Subd. 1. Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this section shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this chapter. An exception shall be made to this prohibition for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Subd 2. Farm Animals. Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least five acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. Any owner of a nonconforming farm animal at the time of adoption of this section shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided in this chapter. An exception shall be made to this section for animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Subd. 3. Penalty. A violation of this section is a misdemeanor punishable as provided in section 100.6, subdivision 2.

506.21

**SHOD ANIMALS PROHIBITED ON CITY STREETS**

It shall be unlawful for any person to permit or allow an animal with shod hoofs on any city street.

506.22

**REVOCAION OF LICENSE OR PERMIT**

The failure of any owner to comply with the requirements of this chapter shall constitute grounds for the immediate revocation of any license or permit issued under this chapter.

506.23

**KENNELS**

Subd. 1. Kennel Defined. The term "kennel" shall mean any place where more than three dogs are owned, possessed, or harbored for any purpose, including but not limited to breeding, sale or sporting purposes.

Subd. 2. Kennel as a nuisance. Because the keeping of more than three dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation, the keeping of more than three dogs on the premises is hereby declared to be a nuisance, and no person shall keep or maintain a kennel within the city.” (01-2018)

506.24            **DANGEROUS DOGS (06-2020)**

Ordinance  
Minnesota.

Subd. 1. Title and Jurisdiction. This Ordinance shall be known, cited, and referred to as the “Shafer Dangerous Dog Ordinance” except as referred to herein, where it shall be known as “this Ordinance.” The provisions of this shall apply to all animals found or located in the City of Shafer,

Subd. 2. Purpose and Intent. It is the intent of the City of Shafer to protect the health and safety of the public against the risks that dangerous and potentially dangerous dogs pose to persons and other animals in the City. By their very nature, dogs that are classified as “dangerous” or “potentially dangerous” pose a direct threat to the people and other animals that live in the same community or may otherwise come into contact with the dangerous or potentially dangerous dogs. Further, it is the intent of the City of Shafer to afford dog owners due process when the owner’s dog is classified as a dangerous or potentially dangerous dog, consistent with Minn. Stat. § 347.50 - .56 or other related laws. This Ordinance shall not apply to dogs not considered dangerous or potentially dangerous, nor shall this Ordinance impact the regulation or control of other animals, whether wild or domestic.

Subd. 3. Adoption by reference. Except as otherwise provided in this section, the regulatory and procedural provisions of Minnesota Statutes Section 347.50 to 347.565 are adopted by reference.

Subd. 4. Definitions.

Animal control authority: means an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

Bodily harm: means physical pain or injury, illness, or any impairment of physical condition.

Dangerous Dog: means any dog that has:

- (1) without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) killed a domestic animal without provocation while off the owner's property;  
or
- (3) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Great bodily harm: means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or causes permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Hearing officer: means a person who is designated by the City to make a determination in an appeal of a designation of dangerous dog or potentially dangerous dog. The Hearing Officer shall preside over the Appeal Hearing, and based upon evidence presented at said hearing the Hearing Officer, shall issue Findings and Determination as to whether a dog is dangerous or potentially dangerous.

Kill or Kills: means the existence of a direct causal connection between the act of the attacking dog and death of the person or other animal. For domestic animals which are euthanized following such an attack, "kill" or "kills" shall mean the death was the direct and inescapable consequence of the attack; extensive veterinary assistance would be ultimately futile and only temporarily prolong the life of the animal; and that euthanasia merely hastened the inevitable death of the animal.

Microchip or Microchipped: means the device or implantation of the device, authorized by, and generally accepted by, the veterinary community, to be permanently implanted in the dog, allowing for permanent identification of the dog and the dog's owner, via scanning and reading of the microchip through the dog's skin, and hair or fur.

Owner: means any person or persons, firm, association or corporation owning, possessing, keeping, harboring, having an interest in, or having care, custody and control of an animal. Any person keeping or harboring an animal for five (5) consecutive days shall, for purposes of this Ordinance, be deemed to be the owner thereof.

Potentially dangerous dog: means a dog that:

(1) when unprovoked, inflicts bites on a human or domestic animal on public or private property;

(2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the owner's property, in an apparent attitude of attack; or

(3) has known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Proper enclosure: means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Provocation: means an act that an adult could reasonably expect may cause a dog to attack or bite.

Substantial bodily harm: means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member organ or other serious bodily member.

#### Subd. 5. Prohibitions

- A. It shall be unlawful for any person to own, possess, keep, harbor, or have in one's possession a "Potentially Dangerous Dog" or "Dangerous Dog," except as provided in this Ordinance.
- B. It shall be unlawful for any person to own, possess, keep, harbor, or maintain a dog after having been ordered to relinquish or release a dog pursuant to the Order of a Hearing Officer, or District Court, when able to do so or reasonably able to direct others to do so on the person's behalf.
- C. Penalty.
  - 1. Any person found to have violated the conditions for maintaining, harboring or keeping a Potentially Dangerous or Dangerous Dog as required under this Ordinance, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

2. Any person who willfully fails to comply with the Order of a Hearing Officer, or District Court, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.

Subd. 6. Potentially Dangerous Dog – Designation

A. Designation as Potentially Dangerous Dog.

1. Any law enforcement officer, the animal control officer, or other authorized agent of the City shall designate any dog as a Potentially Dangerous Dog upon information and belief that the dog meets the definition of a Potentially Dangerous Dog.
2. When a dog is designated a Potentially Dangerous Dog, law enforcement, the animal control officer, or other authorized agent shall cause the owner(s) of the Potentially Dangerous Dog to be notified in writing, by personally serving the owner or a person of suitable age and discretion at the residence of such owner. Service on any one owner, or joint-owner, shall be effective as to all owners.
3. Notice requirements. The notice of Potentially Dangerous Dog shall set forth:
  - a. A description of the dog designated as a Potentially Dangerous Dog;
  - b. The date, time, place and persons or animals bitten, chased, attacked or threatened by the dog;
  - c. The imposition of conditions determined to be necessary and reasonable to continue owning, maintaining, or harboring of a Potentially Dangerous Dog as set forth in subdivision 6. C. of this Ordinance;
  - d. An advisory informing the owner(s) that within fourteen (14) days from the date of service, the owner may submit in writing to the City, a Notice of Intent to Appeal and Request for Hearing, thus appealing the determination or the imposition of conditions to be met by the owner(s) as set forth in subdivision 6. C. of this Ordinance.
  - e. An advisory informing the owner(s) that, if the owner does not request a hearing by timely submitting a Notice of Intent to Appeal and Request for Hearing within fourteen (14) days, the designation of “Potentially Dangerous Dog” will stand and the owner will be

subject to all restrictions and conditions as set forth in the Notice of Potentially Dangerous Dog issued by the law enforcement officer, animal control officer, or other authorized agent.

B. Hearing – Potentially Dangerous Dog.

1. If an owner requests a hearing to appeal the designation as a Potentially Dangerous Dog, the hearing shall be held before a Hearing Officer not more than thirty (30) days after the owner's filing with the City of Notice of Intent to Appeal and Request for Hearing. The Notice and Request for Hearing shall be made directly to the City and a written request must be submitted within the specified time period.
2. At any time following the Potentially Dangerous Dog designation and pending a hearing, if any, the dog may be seized and kept by law enforcement or animal control, unless the owner shows proof, satisfactory to the City, that the dog has met the requirements for rabies vaccinations, distemper, and/or other conditions; is kept only in a proper enclosure, unless restrained on a leash with muzzle; and is otherwise maintained under circumstances which do not present an unreasonable risk of harm to persons or other domestic animals. All costs related to seizing the dog shall be borne by the dog owner(s).
3. At the hearing over which the Hearing Officer shall preside, the records of law enforcement and animal control officers related to the alleged bite(s), attack(s), or threatening behavior, medical or veterinary records, and all reliable hearsay directly related to the alleged bite(s), attack(s), or behavior shall be admissible for consideration by the Hearing Officer without further foundation.
4. The owner may be represented by legal counsel, although the owner is not entitled to legal representation at public expense.
5. At the hearing, law enforcement and/or the animal control officer and the owner may present live testimony of witnesses, cross-examine witnesses, and present documents to support their respective positions.
6. After considering all evidence related to the alleged bite(s), attack(s), or threatening behavior, the Hearing Officer shall make such Findings and Order as the Hearing Officer deems proper, including: Upholding the "Potentially Dangerous Dog" designation; requiring the implantation of a microchip, as set forth in subdivision 4 of this Ordinance; directing law enforcement or the animal control officer to seize the dog and take the dog into custody, if not previously seized; and imposing of any other conditions appropriate for continued

keeping, harboring, or maintaining a Potentially Dangerous Dog; whether or not set forth in subdivision 6. C. of this Ordinance.

C. Conditions of Maintaining Potentially Dangerous Dog.

1. The owner of a dog that has been designated a Potentially Dangerous Dog by law enforcement, animal control officer, or Hearing Officer must arrange for the dog to be microchipped, as set forth in subdivision 4 of this Ordinance;
2. The owner must provide proof of vaccination for rabies, distemper, or other conditions, and provide written verification of said vaccination to the City;
3. The owner must post notice and warning of the presence of a Potentially Dangerous Dog on the front and back of the property where the dog resides, using signs and language that is understandable to children;
4. The dog may be required to be kept in a proper enclosure, or be restrained by chain or leash not to exceed ten (10) feet in length, and muzzled, and under control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a proper enclosure; and
5. The owner shall register the dog as Potentially Dangerous, and pay any corresponding fees that may be established by the City.

Subd. 7. Dangerous Dog -- Designation

A. Designation as Dangerous Dog.

1. Any law enforcement officer, the animal control officer, or other authorized agent of the City shall designate any dog as a Dangerous Dog upon information and belief that the dog meets the definition of a Dangerous Dog.
2. When a dog is designated a Dangerous Dog, law enforcement, the animal control officer or other authorized agent shall cause the owner(s) of Dangerous Dog to be notified in writing, by personally serving the owner or a person of suitable age and discretion at the residence of such owner. Service on any one owner, or joint-owner, shall be effective as to all owners.
3. Notice requirements. The notice of Dangerous Dog shall set forth:

- a. A description of the dog designated as a Dangerous Dog;
- b. The date, time, place and person(s) who are alleged to have sustained substantial bodily harm or the animal(s) alleged to have been killed or attacked by the dog;
- c. The imposition of conditions determined to be necessary and reasonable to continue owning, maintaining, or harboring of a Dangerous Dog as set forth in subdivision 7. C. of this Ordinance;
- d. An advisory informing the owner(s) that within fourteen (14) days from the date of service, the owner may submit in writing to the City, a Notice of Intent to Appeal and Request for Hearing, thus appealing the determination or the imposition of conditions to be met by the owner(s) as set forth in subdivision 6. C. of this Ordinance.
- e. An advisory informing the owner(s) that, if the owner does not request a hearing by timely submitting a Notice of Intent to Appeal and Request for Hearing within fourteen (14) days, the designation of “Dangerous Dog” will stand and the owner will be subject to all restrictions and conditions as set forth in the Notice of Dangerous Dog issued by the law enforcement officer, animal control officer, or other authorized agent.

B. Hearing – Dangerous Dog.

1. If an owner requests a hearing to appeal the designation as a Dangerous Dog, the hearing shall be held before a Hearing Officer not more than thirty (30) days after the owner’s filing with the City of Notice of Intent to Appeal and Request for Hearing. The Notice and Request for Hearing shall be made directly to the City and a written request must be submitted within the specified time period.
2. At any time following the Dangerous Dog designation and pending a hearing, if any, the dog may be seized and kept by law enforcement or animal control, unless the owner shows proof, satisfactory to the City, that the dog has met the requirements for rabies vaccinations, distemper, and/or other conditions; is kept only in a proper enclosure, unless restrained on a leash with muzzle; and is otherwise maintained under circumstances which do not present an unreasonable risk of harm to persons or other domestic animals. All costs related to seizing the dog shall be borne by the dog owner(s).

3. At the hearing over which the Hearing Officer shall preside, the records of law enforcement and animal control officers related to the alleged bite(s), attack(s), or threatening behavior, medical or veterinary records, and all reliable hearsay directly related to the alleged bite(s), attack(s), or behavior shall be admissible for consideration by the Hearing Officer without further foundation.
4. The owner may be represented by legal counsel, although the owner is not entitled to legal representation at public expense.
5. At the hearing, law enforcement and/or the animal control officer and the owner may present live testimony of witnesses, cross-examine witnesses, and present documents to support their respective positions.
6. After considering all evidence related to the alleged bite(s), attack(s), or threatening behavior, the Hearing Officer shall make such Findings and Order as the Hearing Officer deems proper, including: Upholding the “Dangerous Dog” designation; requiring the implantation of a microchip, as set forth in subdivision 4 of this Ordinance; directing law enforcement or the animal control officer to seize the dog and take the dog into custody, if not previously seized; and imposing of any other conditions appropriate for continued keeping, harboring, or maintaining a Dangerous Dog; whether or not set forth in subdivision 7. C. of this Ordinance.
7. Failure to release dog following hearing. Any owner or person who possesses, keeps, harbors, or maintains a Dangerous Dog and who refuses to release to or fails to produce for law enforcement or animal control officer pursuant to the demand of law enforcement or animal control officer, following a determination by the Hearing Officer, upholding the designation as a Dangerous Dog shall be guilty of a misdemeanor.
8. Authority to order destruction of dog. The Hearing Officer, upon confirming a Dangerous Dog designation, is authorized to order, as part of the disposition of the case, that the dog be destroyed based upon findings that either of the following are met.
  - a. The dog is dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks and the owner of the dog has demonstrated by inability or unwillingness to sufficiently control the dog in order to prevent injury to persons or other animals; or

- b. The owner cannot, will not, or otherwise refused to provide proof of liability insurance for the dog as required by subdivision 7. C.

C. Registration and Conditions of Maintaining Dangerous Dog.

- 1. A person seeking to own, possess, keep, harbor, or maintain a Dangerous Dog within the City, must comply with the following:
  - a. Microchip. The owner, must as soon as reasonably possible, but no later than 14 days after the designation or confirmation of the Dangerous Dog designation, have the dog microchipped with approved device, as defined in subdivision 4 of this Ordinance. If the dog has been seized, the owner must arrange for the dog to be microchipped before or at the time of release from custody of the animal control officer. The name of the microchip manufacturer and identification number of the microchip must be provided to the City. If the microchip is not implanted by the owner, it may be implanted by a qualified veterinarian under the direction of the animal control officer. In either case, all costs related to implantation of the microchip must be borne by the dog's owner.
  - b. Registration. No person may own or possess a Dangerous Dog in the City unless the dog is registered as provided under this Ordinance or applicable state law. All dogs deemed dangerous by the animal control authority or Hearing Officer, as applicable, shall be registered as a dangerous animal with the City within fourteen (14) days after the date the dog was so deemed. The owner must, at the time of registration submit and pay an annual registration fee of \$200.00.
  - c. Vaccination. At the time of registration and as a condition of maintaining the dog in the owner's care, the dog owner must provide proof of proper vaccinations against rabies, distemper, or other conditions and provide proof of such vaccination annually upon renewal of registration.
- 2. A dog owner seeking to possess, keep, harbor, or maintain a Dangerous Dog on the owner's property, the owner's residence, or other property under the owner's control must comply with the following:
  - a. Liability insurance. At the time of registration and as a condition of maintaining the dog in the owner's care, the dog owner must provide public liability insurance, pre-paid in full, in the minimum amount of five-hundred thousand dollars (\$500,000) per person

and one million dollars (\$1,000,000) per occurrence, payable to any person or persons injured by the Dangerous Dog; or provide proof of a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of five-hundred thousand dollars (\$500,000) per person and one million dollars (\$1,000,000) per occurrence insuring the owner for any personal injuries inflicted by the Dangerous Dog; and,

- b. Proper enclosure. The dog must be maintained in a Proper Enclosure as defined in subdivision 4 of this Ordinance.
- c. Display warning/posting as dangerous dog. If the City registers the Dangerous Dog, allowing for possessing, keeping, harboring, or maintaining, the owner must clearly post the property with the Uniform Dangerous Dog symbol as specified by the Commissioner of Public Safety. Posting must include the front and rear of the owner's property where the Dangerous Dog resides and the proper enclosure in which the dog is maintained. The Dangerous Dog must continually display on the dog's collar the Uniform Dangerous Dog symbol/tag; and
- d. Proper restraint. The dog must be restrained by chain or leash not to exceed ten (10) feet in length, must be muzzled, and under the physical control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a proper enclosure.

Subd. 8. Appeals, Reviews, and Compliance

- A. The decision of the Hearing Officer regarding the designation of a dog as a Potentially Dangerous Dog or Dangerous Dog shall be the final decision of the City.
- B. Review of designation. Beginning one year after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided the city may rescind the designation.
- C. Compliance with designation.
  - 1. Upon receipt of the Hearing Officer's Findings and Determination, the owner or custodian of the dog shall comply with the requirements as set forth in the original Notice, or if modified by the Hearing

Officer, set forth in the Determination and Order of the Hearing Officer.

2. If an owner or custodian of the dog fails to comply with any conditions set forth in the written Notice or as subsequently specified in the Hearing Officer's Determination and Order and fails to request a hearing within the specified period, the animal may be seized.
3. Subsequent offenses. If an owner of an animal which has been declared dangerous or potentially dangerous is subject to the conditions of this section and has allegedly failed to comply with the conditions, the animal must be seized by law enforcement or animal control officer. Notice shall be provided to the owner of the basis for the seizure and the right to request a hearing before a Hearing Officer to determine whether the conditions were violated. A request for a hearing must be made within fourteen (14) days of seizure. If the owner fails to request a hearing within fourteen (14) days, or is found to have violated the conditions, the animal control officer or designated Hearing Officer as appropriate shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the owner is found not to have violated the conditions, the owner may reclaim the animal under conditions set by law enforcement or the animal control officer.
4. Failure to comply. Law enforcement or the animal control officer shall immediately seize any Dangerous Dog or Potentially Dangerous Dog if:
  - a. After fourteen (14) days following service upon the owner of the notice that the dog is Dangerous or Potentially Dangerous, or the Hearing Officer's Determination, the dog is not validly registered with the City or there is insufficient information presented to the City to demonstrate the dog owner has complied with each of the specified conditions of maintaining, keeping, or harboring a Dangerous Dog or Potentially Dangerous Dog.
  - b. The dog owner has failed to file a Notice of Intent to Appeal and Request for Hearing with the City in a timely manner.

Subd. 9.      Exemptions

- A. Unprovoked and/or Justified. A dog may not be declared Dangerous or Potentially Dangerous if the threat, injury or damage was sustained by a person who:
  - 1. Was committing at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - 2. Was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - 3. Was committing or attempting to commit a crime against the owner or the owner's property.
  
- B. Law Enforcement. Dangerous Dog or Potentially Dangerous Dog designations shall not apply to a law enforcement canine that may attack, bite, or cause injury in conjunction with duties related to law enforcement, including apprehension of a criminal suspect.

Subd. 10. Notification Requirements

- A. Relocation or death. The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Clerk in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.
  
- B. Renter's obligations. A person who owns or possesses a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potential dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.
  
- C. Transfer of ownership to the city. No dog that has previously been determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored in the city unless the dog's owner complies with the requirements of this section and prior to bringing

the dog into the city. Dogs in violation of this division are subject to impoundment and destruction.

Subd. 11. Destruction of Dogs in Certain Circumstances

- A. Infliction of bodily harm or death. A dog that inflicted death or substantial or great bodily harm on a human being on public or private property without provocation may be destroyed in a proper and humane manner by law enforcement or the animal control officer. The dog may not be destroyed until there has been a reasonable effort to notify the owner consistent with the procedures set forth in subdivisions 6 and 7 of this Ordinance and the dog owner is provide the opportunity for a hearing before a Hearing Officer.
- B. Suffering beyond cure. Notwithstanding any other provision of this Ordinance, any dog taken into custody may be immediately disposed of when the dog is suffering and is believed to be beyond cure through reasonable care and treatment upon a written determination by a licensed doctor of veterinary science.

This ordinance shall become effective immediately upon its passage and publication according to law.

(Adopted by the Shafer City Council on June 16, 2020. Published June 25, 2020)

**Part 7. Bingo, Other Lawful Gambling,  
and Video Games of Chance**

507.01 **LAWFUL GAMBLING PERMITTED**

- 1. Lawful gambling, as defined in Minnesota Statutes, Section 349.12, Subd. 24, is permitted in the City of Shafer if the organization conducting such gambling meets the following criteria:
  - a. Is licensed by the Minnesota Gambling Control Board, and is in compliance with Minnesota Statutes Section 349;
  - b. Is a tax-exempt organization pursuant to Section 501(c) of the

Internal Revenue Code or has a Section 501(c) application pending with the Internal Revenue Service;

- c. Maintains a primary place of business within Chisago County and conducts more than 50% of its activities within the Chisago Lakes School District;
- d. Has been in existence as a non-profit corporation or as a Section 501(c) tax exempt organization for at least three (3) consecutive years prior to the date it begins its gambling operation; and
- e. Complies with all of the provisions of this Ordinance.

507.02      **FILING OF RECORDS; INSPECTIONS; ACCESS TO RECORDS**

- 1. Every organization licensed to conduct gambling in the City of Shafer shall file with the City Clerk copies of all records and reports required to be filed with the Minnesota Gambling Control Board pursuant to Minnesota Statutes, Chapter 349, and the rules and regulations promulgated thereunder. The records and reports shall be due at the same time they are due to the Board;
- 2. Every gambling event in the City of Shafer conducted by an organization under Minnesota Statutes, Chapter 349, shall be open to inspection by officers of the City of the Shafer City Council and/or Chisago County Sheriff's office; and
- 3. Employees of the City of Shafer may inspect, at any reasonable time, without notice or search warrant, all records of a licensed organization, including gambling accounts and other bank records, which are required, by the Minnesota Gambling Board, to be maintained and preserved.

507.03      **APPROVAL OF PREMISES PERMIT**

- 1. The Minnesota Gambling Control Board shall notify the City Council in writing in the manner required by law of each pending application for a lawful gambling license at least sixty (60) days before issuing or renewing the license. Each pending application for a license shall be approved or disapproved by resolution or motion of the City Council.
- 2. Any organization applying to the Gambling Control Board for a Premises Permit, Bingo Hall License, or for the renewal of the same to conduct lawful gambling in the City shall, within ten (10) days of making such application, file the following with the City Clerk:

- a. A duplicate copy of the Gambling Control Board application along with all supporting documents submitted to the Gambling Control Board;
  - b. A copy of the Articles of Incorporation and Bylaws of the organization;
  - c. The names and addresses of all officers and directors of the organization;
  - d. A copy of the organization's written procedures and/or criteria for distribution of funds derived from lawful gambling, its standardized application form and its written fiscal control procedures; and
  - e. A copy of the Internal Revenue Service's tax-exempt letter.
  - f. Such evidence as the City may deem necessary to determine whether the organization maintains its primary place of business within the county and carries out more than 50% of its activities within the school district.
3. Upon receipt of the materials required by Paragraph 2, above, and not later than sixty (60) days from receipt of notice from the Gambling Control Board, City staff shall investigate the applicant, and based upon said investigation, the City Council shall act on the application.
  4. The action of the City Council to approve an application for a Premises Permit or a Bingo Hall License within the City shall be by resolution or motion. Failure to receive a majority affirmative vote of the City Council shall consist as denial of the application.
  5. A copy of the council resolution or motion will be made available to the license application upon request.
  6. Copies of any other reports or documents which are required to be subsequently filed by the organization with the Gambling Control Board, including monthly financial statements, shall be filed with the City within ten (10) days of filing such materials with the Gambling Control Board.
  7. To assure compliance with this Ordinance, the City may require a Premises Permit holder or Bingo Hall licensee to provide copies of the records described in Minnesota Statutes Section 349.215.

1. No single organization may conduct lawful gambling at more than three (3) locations within the City.
2. Lawful gambling under license issued by the Minnesota Lawful Gambling Control Board may be conducted only at the following locations:
  - a. In the licensed organization's hall where it has its regular meetings. No organization shall rent, lease, or occupy, directly or indirectly, any other property for the purpose of conducting gambling, except an on-sale establishment as permitted in this ordinance;
  - b. In licensed on-sale liquor, wine, and beer establishments; and
  - c. Notwithstanding Subsection A and B above, "raffle only" licenses may be approved for any proper location.
3. No location shall be approved for gambling unless it complies with the applicable zoning, building, fire and health codes of the City of Shafer.

507.05

#### **LIQUOR SALES/LAWFUL GAMBLING AT ON-SALE ESTABLISHMENTS**

1. No sale, consumption, or possession of liquor, wine, or 3.2 beer shall be permitted during gambling conducted by a licensed organization, except as permitted under a valid on-sale liquor, wine, or 3.2 beer license, or a bottle club permit; provided further that no sale, consumption, or possession of liquor, wine, or 3.2 beer shall be permitted in the room where a bingo session is taking place.
2. Lawful gambling at on-sale liquor, wine, and 3.2 beer establishments shall be conducted in compliance with the following regulations:
  - a. Only licenses for pull-tabs and raffles may be issued, except where the licensed gambling organization also holds the on-sale liquor, wine or 3.2 beer licenses for the premises, in which case any lawful gambling license may be issued;
  - b. On-sale establishments shall be limited to one licensed gambling organization at any one time in the licensed premises or any rooms adjoining the premises under the same management or ownership. No lease shall be effective between an on-sale establishment and a gambling organization while there is still a lease in effect between the on-sale establishment and another gambling organization;

- c. Every agreement between a non-profit organization and an on-sale premise for gambling shall be in the form of a written lease. The written lease shall be the complete agreement between the parties, and there shall be no unwritten terms or conditions. The lease shall specifically provide that the lessee shall operate only after issuance of a license and shall be subject to the terms of this ordinance;
- d. A copy of any lease agreement between a non-profit organization and an on-sale licensee shall be filed with the City Clerk with the gambling license application;
- e. A lease agreement between a non-profit organization and an on-sale establishment shall not provide for rental payments based on a percentage of receipts of profits from lawful gambling. There shall be no other compensation paid to the on-sale establishment, directly or indirectly, other than the rental fee provided in the lease agreement. The maximum rental fee shall be one thousand dollars (\$1000.00) per month;
- f. No gambling employee may use intoxicating beverages while working on the sale of games;
- g. No gambling funds shall be commingled with funds of the on-sale establishment;
- h. No food, drink, or entertainment discounts or other promotions shall be offered in conjunction with the sale of gambling devices or chances;
- i. The on-sale establishment shall allow the organization to conduct gambling at any time during its lawful business hours and shall prohibit gambling at any time other than its lawful business hours;
- j. The on-sale licensee shall make no agreements with any gambling equipment distributor requiring the use of his or her gambling equipment in the establishment;
- k. Subsections f, g, h, i, j and k shall not apply when the licensed gambling organization is also the holder of the on-sale license for the establishment where the gambling is conducted;
- l. The City Council may disapprove a gambling license application for an on-sale establishment in which gambling violations have previously occurred.

507.06 **GAMBLING MANAGER**

1. Before any person may serve as a gambling manager for any organization licensed to conduct gambling in the City of Shafer, that person must have satisfactorily completed a course of instruction conducted by the Minnesota Gambling Board on the duties and responsibilities of the gambling manager.

507.07 **TRADE AREA REQUIREMENT**

1. Unless specifically permitted by the City Council in accordance with subparagraph 3 below, every organization conducting lawful gambling within the jurisdiction of the City of Shafer shall annually expend at last ninety percent (90%) of its expenditures for lawful purposes on lawful purposes conducted or located within the Chisago Lakes School District.
2. The City of Shafer's "Trade Area" is defined as the area located within the Chisago Lakes School District.
3. An organization may apply to the City Council for special permission to expend less than 90% of its expenditures for lawful purposes within the City's trade area on a case-by-case basis. The City Council shall have complete discretion in deciding whether or not to grant such permission.

507.08 **GAMBLING EXEMPT FROM STATE LICENSING REQUIREMENTS**

1. Organizations which conduct lawful gambling which is exempt from state gambling licensing requirements (pursuant to Minnesota Statute Section 349.166) may conduct such gambling within the City upon receipt of a permit from the City; except this requirement does not apply to door prizes or raffles and bingo where total prizes are less than \$5,000 in a calendar year;
2. An application for such a permit shall be made at least thirty (30) days prior to the date such gambling shall be conducted. The application shall contain the following:
  - a. The name of the organization;
  - b. The address of the organization;
  - c. The place where such gambling will occur;
  - d. The total prizes to be awarded.
3. The organization shall pay a permit fee of ten dollars (\$10.00) for each day

the gambling is conducted;

4. Permits for all classes of gambling activities may be approved;
5. Lawful gambling by an organization exempt from licensing may be conducted on the premises of a licensed on-sale liquor, wine, or beer establishment or a bottle club, subject to the restrictions of this chapter relating to the conduct of gambling in on-sale establishments and bottle clubs;
6. Except as provided in subsection 5 above, the sale, consumption, and possession of intoxicating liquor at a gambling event by an exempt organization shall be prohibited. However, 3.2 beer may be served and consumed, but only under a valid temporary on-sale beer license;
7. The organization shall comply with all statutory requirements for an exempt organization, including the thirty (30) day notice requirement to the City, pursuant to Minnesota Statutes Section 349.166, Subd. 2 (4);
8. Within thirty (30) days after filing any reports with the Gambling Control Board, the organization shall file a copy of such reports with the City; and
9. The provisions relating to "law enforcement and administrative costs" set forth herein shall not apply to gambling permitted pursuant to this Section. All other provisions of this Chapter apply to such organizations.

507.09

#### **CONTRIBUTION TO FUND ADMINISTERED BY CITY**

Any organization licensed by the City pursuant to this Chapter must contribute five percent (5%) of its net profits derived from lawful gambling within the City to a fund administered and regulated by the City for disbursements by the City for lawful purposes, in accordance with Minnesota Statute Section 349.213.

## **Part 8. Recreational Fires and Open Burning**

### **508.01 DEFINITIONS (10-2000)**

Subd. 1. Person. As defined in Minnesota Statutes 1867, Sec. 116.06, Subd. (8).

Subd. 2. Open Fire. “Open Fire” or “Open Burning” means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.

Subd. 3. Recreational Fire. “Recreational Fire” means a fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground five (5) feet from the base of the fire cleared of all combustible material.

Subd. 4. Starter Fuel. “Starter Fuels” mean dry, untreated, unpainted wood or charcoal fire starter. Alcohol and paraffin candles are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open fire.

Subd. 5. Wood. “Wood” means dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cordwood, or untreated dimensional lumber. “Wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three (3) foot lengths.

Subd. 6. Burning Permit. A permit issued by the city Fire Warden authorizing fires exempted from the general provisions hereof, and setting conditions therefore.

### **508.02 OPEN BURNING GENERALLY PROHIBITED (10-2000)**

From and after the effective date of this ordinance, except as herein otherwise provided, open burning shall be prohibited within the City of Shafer.

### **508.03 EXCEPTIONS AND EXEMPTIONS (10-2000)**

Open burning of the types, and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition of Section 5 of this ordinance.

A. Recreational Fires.

1. Recreational Fire Site – Requirements. An area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or block of ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Recreation fire sites shall not be located closer than fifteen (15) feet from any property line. Burners are not a recreational fire site as defined herein.
2. Recreational Fire Burn – Requirements. When a fire is used for recreational purposes, it must be ignited with an approved starter fluid using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult (over the age of 21 years) tending the fire at all time; a garden hose hooked to the water supply shall be available; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smoker, and propane or natural gas devices are not defined as a recreational fire.

B. Fires under managed supervision for which a burning permit has been obtained from the City Fire Warden and, where required by State law, from the Department of Natural Resources, but limited to the following:

1. Fires purposely set for the instruction and training of public and industrial fire-fighting personnel.
2. Fires set for the elimination of a fire hazard, which cannot be abated by any other practicable means.
3. Fires purposely set for forest and game management purposes.
4. The burning of trees, brush, grass, and other vegetable matter in the clearing of land, the maintenance of street, road and highway right-of-way, and in accepted agricultural land management practices.

- C. Exemption to conduct fire under this section does not excuse a person from the consequences, damages or injuries, which may result therefrom nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit-exercising jurisdiction in matters of pollution or fire hazard regulations.

508.04 **RULES ADOPTED BY REFERENCE (10-2000)**

Minnesota Statutes 88.02-88.22, 88.75, 88.76 and Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.

508.05 **AREA OF ENFORCEMENT (10-2000)**

This ordinance shall affect all properties located within the city limits of the City of Shafer.

508.06 **SEVERABILITY (10-2000)**

If any section, sentence, clause or phase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

508.07 **PENALTY (10-2000) (10-2007)**

Any person violating the provisions of Section 508.01 through 508.07 of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$1000.00 or by imprisonment in the County Jail for not more than 90 days, or both.

**Part 9. Park Regulations (02-2008)**

509.01           **DEFINITIONS (02-2008) (09-2023)**

Subd. 1. Electronic Delivery Device. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery device includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 2. Public Park. “Public Park” means any public land set aside and designated for public park purposes and/or any property zoned park.

Subd. 3. Smoke. “Smoke” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device.

509.02           **HOURS (02-2008)**

City parks shall be open to the public between dawn and dusk.  
City parks shall be closed between the hours of dusk and dawn.

509.03           **PICKING PLANTS PROHIBITED (02-2008)**

No person, other than an employee of the City, may pick or cut any wild or cultivated flower, or cut, break, or in any way injure or deface any tree, shrub or plant within any park, playground or public beach, or carry within or out of any park, playground, or public beach any wild flower, tree, shrub, plant, branch or soil.

509.04           **ALCOHOL AND SMOKING PROHIBITED (02-2008) (09-2023)**

Subd. 1. No person shall possess, consume, or provide to others any alcoholic beverages within any city park.

Subd. 2. It is unlawful to smoke on any public park property. A violation of this subdivision is a petty misdemeanor.

509.05      **ANIMALS (02-2008)**

Persons who bring or permit any animal into any city park shall be responsible for cleaning up after the animal.

509.06      **MOTOR VEHICLES (02-2008)**

Except for city vehicles, service vehicles or other vehicles authorized by the City, there shall be no unauthorized motor vehicles within city parks other than in designated parking areas.

509.07      **VIOLATIONS MISDEMEANORS (02-2008)**

Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine up to \$1,000.00, with costs, and/or by imprisonment for not to exceed 90 days. All fines collected under this section shall be deposited in the parks fund.

**Part 10. Local Lodging Tax (January 2018)**

510.01      **DEFINITIONS**

As used in this chapter, the following words and terms shall have meanings given to them by this section:

CITY: The City of Shafer.

DIRECTOR: The Finance Director of the City, City Clerk or Designated Person.

LODGER: The person obtaining lodging from an operator.

LODGING: The furnishing for consideration of lodging by a hotel, motel, rooming house, campgrounds, air B&B, tourist court, or resort, except where such lodging shall be for a continuous period of 30 days or more to the same lodger.

OPERATOR: A person who provides lodging to others, or any officer, agent or employee of such person.

PERSON: Any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term "person" is used in any provision of this chapter prescribing and imposing a penalty, the term as applied to a corporation, association, or partnership, shall mean the officers or partners thereof as the case may be.

RENT: The total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

510.02      **IMPOSITION OF TAX**

There is hereby imposed a tax of 3% on the rent charged by an operator for providing lodging to any person. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the city and shall be extinguished only by payment to the city. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this chapter to collect from a lodger.

510.03      **COLLECTIONS**

Each operator shall collect the tax imposed by this chapter at the time rent is paid. The tax collections shall be held in trust by the operator for the city. The amount of tax shall be separately stated from the rent charged for the lodging.

510.04      **EXEMPTIONS**

An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim therefore made at the time the rent is collected and such a claim shall be made in writing under penalty of perjury on forms provided by the city. All such claims shall be forwarded to the city when the returns and collections are submitted as required by this chapter.

510.05      **ADVERTISING NO TAX**

It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any party thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. Operator must collect. In computing the tax to be collected, amounts of tax less than one cent (\$0.01) shall be considered an additional cent (\$0.01).

510.06      **PAYMENTS AND RETURNS**

The taxes imposed by this chapter shall be paid by the operator to the city not later than 25 days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the city may require. The return shall contain the following minimum information:

A. The total amount of rent collected for lodging during the period covered by the return.

- B. The amount of tax required to be collected and due for the period.
- C. The signature of the person filing the return or that of an agent duly authorized in writing.
- D. The period covered by the return.
- E. The amount of uncollectible rental charges subject to the lodging tax.
- F. A copy of the "Minnesota State Sales and Use Tax Return" submitted by the operator for the period covered by the return.

The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this chapter previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

510.07

### **EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES AND DEMANDS**

The Director may rely upon the "Minnesota State Sales and Use Tax Return" filed by the operator with the state in determining the accuracy of a return filed under this chapter. However, the Director shall be authorized to make any investigation or examination of the records and accounts of the person making the return, if the Director reasonably determines that such steps are necessary for determining the correctness of the return. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the city within ten days after receipt of a notice thereof, given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the city within ten days after determination of such refund.

510.08

### **REFUNDS**

Any person may apply to the Director for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The Director shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the Director shall credit the amount of the allowance against any taxes due under this chapter from the claimant and the balance of said allowance, if any, shall be paid by the Director to the claimant.

510.09

### **FAILURE TO FILE A RETURN**

- A. If any operator required by this chapter to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand,

file such return or corrected return within five days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the Director shall make a return or corrected return, for such person from such knowledge and information as the Director can obtain, and assess a tax on the basis thereof, which tax, less any payments theretofore made on account of the tax for the taxable period covered by such return shall be paid within five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the Director shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

- B. If any portion of a tax imposed by this chapter, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursements of any action.
- C. Upon a showing of good cause, the Director may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this chapter provided that interest during such period of extension shall be added to the taxes due at the rate of 10% per annum.

510.10                   **PENALTIES**

If any tax imposed by this chapter is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of 10% per annum from the time such tax should have been paid until it is paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

510.11                   **ADMINISTRATION OF TAX**

The Director shall administer and enforce the assessment and collection of taxes imposed by this chapter. The Director shall cause to be prepared blank forms for the returns and other documents required by this chapter and shall distribute the same throughout the city and furnish them on application, but failure to receive or secure them shall not relieve any person from any obligation required of him or her under this chapter.

510.12                   **EXAMINATION OF RECORDS**

The Director and those persons acting on behalf of the Director, authorized in writing by the Director, may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this chapter. Every such operator is directed and required to give to the Director, or such other

authorized agent or employee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

510.13

### **VIOLATIONS**

Any person who shall willfully fail to make a return required by this chapter; or who shall fail to pay the tax after written demand for payment; or who shall fail to remit the taxes collected or any penalty or interest imposed by this chapter, after written demand for such payment; or who shall refuse to permit the city to examine the books, records and papers under his or her control; or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor.

510.14

### **USE OF PROCEEDS AND ANNUAL REPORT**

95% of the proceeds obtained from the collection of taxes pursuant to this chapter shall be used in accordance with Minnesota Statutes Section 469.190, as the same may be amended from time to time, to fund a local visitors bureau for the purpose of marketing and promoting the city as a tourist or convention center. Commencing in **2018**, the Chisago Lakes Visitors Association shall, for its most recent calendar year, provide an annual year-end report of its operations and its financial condition to the Shafer City Council in writing and by oral presentation at a City Council meeting.

510.15

### **APPEALS**

- A. Any operator aggrieved by any notice, order or determination made by the Director under this chapter may file a petition for review of such notice, order or determination detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination.
- B. The petition for review shall be filed with the city within ten days after the notice; order or determination for which review is sought has been mailed or served upon the person requesting review.
- C. Upon receipt of the petition, the city manager, or the manager's designee, shall set a date for a hearing and give the petitioner at least five days' prior written notice of the date, time and place of the hearing.
- D. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. The petitioner may be represented by counsel of petitioner's choosing at petitioner's own expense.

- E. The hearing shall be conducted by the city manager, or the manager's designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice or determination for which review is sought.
- F. The person conducting the hearing shall make written findings of fact and conclusion based upon the applicable sections of this chapter and evidence presented. The person conducting the hearing may affirm, reverse or modify the notice, order or determination made by the Director.
- G. Any decision rendered by the city administrator or clerk, or the manager's designee, pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal the decision must file a written notice of appeal with the city within ten days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the council agenda as soon as it is practical. The council shall then review the findings of fact and conclusions to determine whether they are correct. Upon a determination by the council that the findings and conclusions are incorrect, the council may modify, reverse or affirm the decision of the city manager, or the manager's designee, upon the same standards as set forth in subsection F of this section.

510.16

**EFFECTIVE DATE**

This chapter shall be in force and effect from January 2018.