

TITLE I: GENERAL PROVISIONS

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY2

10.01. TITLE OF CODE2

10.02. RULES OF INTERPRETATION2

10.03. APPLICATION TO FUTURE ORDINANCES3

10.04. CAPTIONS3

10.05. DEFINITIONS3

10.06. SEVERABILITY4

10.07. REFERENCE TO OTHER SECTIONS4

10.08. REFERENCE TO OFFICES5

10.09. ERRORS AND OMISSIONS5

10.10. OFFICIAL TIME5

10.11. REASONABLE TIME5

10.12. ORDINANCES REPEALED5

10.13. ORDINANCES UNAFFECTED5

10.14. EFFECTIVE DATE OF ORDINANCES5

10.15. REPEAL OR MODIFICATION OF ORDINANCE6

10.16. ORDINANCES WHICH AMEND OR SUPPLEMENT CODE6

10.17. PRESERVATION OF PENALTIES6

10.18. COPIES OF CODE6

10.19. ADOPTION OF STATUTES AND RULES BY REFERENCE7

10.20. GENERAL PENALTY7

10.21. LICENSE NON-RENEWAL, SUSPENSION OR REVOCATION8

10.22. ABATEMENT OF NUISANCES9

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

10.01.	TITLE OF CODE	2
10.02.	RULES OF INTERPRETATION	2
10.03.	APPLICATION TO FUTURE ORDINANCES	3
10.04.	CAPTIONS	3
10.05.	DEFINITIONS.	3
10.06.	SEVERABILITY	4
10.07.	REFERENCE TO OTHER SECTIONS.	4
10.08.	REFERENCE TO OFFICES.	5
10.09.	ERRORS AND OMISSIONS	5
10.10.	OFFICIAL TIME	5
10.11.	REASONABLE TIME.	5
10.12.	ORDINANCES REPEALED.	5
10.13.	ORDINANCES UNAFFECTED	5
10.14.	EFFECTIVE DATE OF ORDINANCES	5
10.15.	REPEAL OR MODIFICATION OF ORDINANCE.	6
10.16.	ORDINANCES WHICH AMEND OR SUPPLEMENT CODE	6
10.17.	PRESERVATION OF PENALTIES.	6
10.18.	COPIES OF CODE	6
10.19.	ADOPTION OF STATUTES AND RULES BY REFERENCE	7
10.20.	GENERAL PENALTY	7
10.21.	LICENSE NON-RENEWAL, SUSPENSION OR REVOCATION.	8
10.22.	ABATEMENT OF NUISANCES.	9

10.01. TITLE OF CODE

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

B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

10.02. RULES OF INTERPRETATION

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

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

- 1) Acts by assistants. When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that

requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

- 2) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.
- 3) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

10.03. APPLICATION TO FUTURE ORDINANCES.

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

10.04. CAPTIONS.

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

10.05. DEFINITIONS.

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

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

- 1) CHAPTER. A division of this Code identified by the heading “Chapter” and a Chapter number. Chapters can be referred to by number or title (such as “Chapter 10” or “Rules of Construction.”)
- 2) CITY. The area within the corporate boundaries of the City as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term CITY when used in this code may also be used to refer to the City Council and its authorized representatives.
- 3) CODE, THIS CODE or THIS CODE OF ORDINANCES. This City code as modified by amendment, revision and adoption of new titles, chapters or sections.
- 4) COUNTY. Wright County, Minnesota.
- 5) MAY. The act referred to is permissive.
- 6) MONTH. A calendar month.

- 7) OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.
- 8) OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT. An officer, office, employee, commission or department of the City unless the context clearly requires otherwise.
- 9) PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.
- 10) PRECEDING or FOLLOWING. Next before or next after, respectively.
- 11) SECTION. A subpart of each Chapter identified by number and included in the Table of Contents under each Chapter heading. Sections may be referred to by name or number (such as “Section 10.01” or “Title of Code.”)
- 12) SHALL. The act referred to is mandatory.
- 13) SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.
- 14) STATE. The State of Minnesota.
- 15) TITLE. A division of the Code identified by the heading “Title” and a Title number. Titles may be referred to by name or number (such as “Title 1” or “General Provisions”)
- 16) WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.
- 17) YEAR. A calendar year unless otherwise expressed.

10.06. SEVERABILITY.

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

10.07. REFERENCE TO OTHER SECTIONS.

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

10.08. REFERENCE TO OFFICES.

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

10.09. ERRORS AND OMISSIONS.

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

10.10. OFFICIAL TIME.

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

10.11. REASONABLE TIME.

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

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

10.12. ORDINANCES REPEALED.

A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.

B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

10.13. ORDINANCES UNAFFECTED.

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

10.14. EFFECTIVE DATE OF ORDINANCES.

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

10.15. REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

10.16. ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

B) Additions.

1) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section.

2) In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

10.17. PRESERVATION OF PENALTIES.

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

10.18. COPIES OF CODE.

A) The official copy of this code shall be kept in the Office of the City Administrator/ Clerk-Treasurer for public inspection.

B) The Administrator/Clerk-Treasurer shall provide a copy for sale for a reasonable charge.

10.19. ADOPTION OF STATUTES AND RULES BY REFERENCE.

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

10.20. GENERAL PENALTY.

A) In the event of a violation of this code, the City may institute any action or proceedings available, including but not limited to: any civil action available, including but not limited to requesting injunctive relief to prevent, restrain, correct or abate violations; administrative enforcement; and criminal action.

B) Each right or remedy accruing to the City under this code is separate and distinct, and may, in the City's discretion, be exercised independently or simultaneously with any other right or remedy.

C) A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

D) Administrative Fines. Any person, firm or corporation who is found to have violated a provision of this Code may be fined under Chapter 25 of this Code, Administrative Enforcement.

E) Criminal Penalty. Any person, firm or corporation who violates any provision of this Code may be charged with a Misdemeanor in criminal court. The City and prosecuting attorney have the discretion to add the costs of prosecution to the penalty.

F) Costs.

1) In addition to the penalties provided herein, the City may recover costs, disbursements, expenses, losses or damages the City incurs through the violation of this code or by enforcing this Code, including but not limited to: court reporter's fees, filing fees, attorney fees, expert witness fees, consultant fees and administrative costs against the person found to have violated this Code, or the orders, rules, regulations, and permits issued hereunder.

2) Any costs, disbursements, expenses, losses or damages the City is entitled to collect, including but not limited to: court reporter's fees, filing fees, attorney fees, expert witness fees, consultant fees and administrative costs, may be assessed to property in the City of Montrose or the State of Minnesota under any applicable law.

G) Falsifying Information. Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Code or who falsifies, tampers with, or

knowingly renders inaccurate any monitoring device or method required under this Code shall, upon conviction, be guilty of a Misdemeanor.

10.21. LICENSE NON-RENEWAL, SUSPENSION OR REVOCATION.

A) Any license issued under this Code, other than animal licenses, may be non-renewed, suspended or revoked by following the provisions of this Section.

B) In addition to the provisions of this section the non-renewal, suspension, or revocation must follow all provisions of the applicable Chapters or Sections of this Code.

C) Generally. Any license issued under this Code may be non-renewed, suspended or revoked at the discretion of the City Council for any reason the City Council deems appropriate including, but not limited to the following:

- 1) Violation of any applicable federal, state, or county law;
- 2) Violation of any provision of this Code;
- 3) Fraud, misrepresentation or incorrect statements on the application form;
- 4) Fraud, misrepresentation or false statements made to the City during the course of the licensed activity;
- 5) Conviction of any offense for which granting of a license could have been denied;
- 6) The licensed business is being conducted in a manner as to maintain a nuisance under this Code or other applicable law; or
- 7) The licensed business is no longer being operated or carried on;
- 8) The loss of the qualifications necessary to receive or maintain the license under this Code.

D) Multiple persons under one license. The non-renewal, suspension or revocation of any license issued to multiple persons shall serve as a non-renewal, suspension or revocation of each authorized person's licenses.

E) Any suspension or revocation of a liquor licenses must follow the procedures contained in Minn. Stat. 340A.415.

F) Any non-renewal, suspension, or revocation of any license, other than a liquor license, under this Code shall follow the following procedures:

- 1) Notice.
 - a) Prior to non-renewal, suspension or revocation of any license, other than a liquor license, under this code, the City shall provide the license holder with written notice. The notice shall include the time and place of the hearing, a statement of the charges or alleged violations, facts supporting

the charges or violations, and the applicant's right to be represented by council.

- b) The Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license.

2) Hearing.

- a) A public hearing shall be held before the City Council on the issue of non-renewal, suspension or revocation. The City Council may, at its sole discretion, delegate the hearing to the Minnesota Office of Administrative Hearings and may then rely on the findings of the Administrative Law Judge in deciding whether to revoke, suspended or not renew a license.
- b) The City must present evidence supporting the charges or violations. The licensee shall have an opportunity to be heard and to refute the charges including the right to present evidence and witnesses and to cross examine any witnesses presented by the City.

- 3) Findings. Within 30 days the City shall notify the licensee of its decision and of the licensee's right to appeal that decision in court.

G) Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a person acting under a license issued under this Code, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in this Section.

H) Appeals. Any person whose license is non-renewed, suspended or revoked under this section shall have the right to appeal that decision in court within 60 days of receipt of the City's findings.

10.22. ABATEMENT OF NUISANCES.

A) Abatement.

- 1) Any nuisance as identified in this Code, by State statute or in any other law may be abated through Chapter 25 Administrative Enforcement and/or through criminal procedures with the offense charged as a Misdemeanor.
- 2) The City reserves the right in its sole discretion to use any other method of enforcement including those methods listed in Section 10.20 General Penalty.
- 3) The City reserves the right, if in the sole discretion of the City an emergency exists, to use the following procedures:
 - a) Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with

summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

- 4) Immediate abatement. Nothing in this section shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.
- B) Recovery of Costs. The City may recover any costs expended in abating a nuisance as outlined in Section 10.20 General Penalty.