

**ORDINANCE NO. 2020-03
CITY OF MONTROSE
COUNTY OF WRIGHT
STATE OF MINNESOTA**

**AN ORDINANCE AMENDMENT TO CHAPTERS 10, GENERAL PENALTY,
AND 25, ADMINISTRATIVE ENFORCEMENT,
OF THE CITY CODE OF THE CITY OF MONTROSE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE THAT THE FOLLOWING CHAPTER AND SECTIONS OF THE ZONING ORDINANCE ARE AMENDED TO READ AS FOLLOWS:

Section 1. Chapter 10.20 is amended as follows:

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.

Section 2. Chapter 10.22 is amended as follows:

10.22. ABATEMENT OF NUISANCES.

- A) The City may abate a nuisance after a property owner has received an administrative citation in accordance with Section 25.03 of the City Code. The purpose of the abatement procedure is to protect the public health, safety or welfare of the City, its residents, and property owners.
- B) 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 without first issuing an administrative citation under Section 25.03. 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.
- C) Recovery of Costs. The City may recover any costs expended in abating a nuisance as outlined in Section 10.20 General Penalty

Section 3. Chapter 25 ADMINISTRATIVE ENFORCEMENT is amended as follows:

25.01. PURPOSE AND INTENT.

The administrative enforcement procedures established within this chapter are intended to provide the City with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of the adopted City code and zoning ordinance. The City retains the right, at its sole discretion, to also enforce provisions of this code and zoning ordinance by bringing criminal charges or commencing civil litigation in any case where the City determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the City and further finds that such a process is a legitimate and necessary alternative method of enforcing code violations. The penalties imposed by this chapter may be in addition to any other enforcement mechanism available to the City for violations of the City code and zoning ordinance.

25.02. DEFINITIONS

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

CODE COMPLIANCE OFFICER: Any officer of the Wright County Sheriff's Department, any employee of the City of Montrose, or any person or company contracted to provide Code enforcement services who has received official authority by the Montrose City Council to enforce this Code. There may be more than one person designated as Code Compliance Officer at any given time.

CODE OFFENSE: A violation of any section, subdivision, paragraph or provision of this Code and is subject to a civil penalty determined according to a schedule adopted by resolution of the Montrose City Council from time to time and payable directly to the City

Treasurer. Each day the violation exists constitutes a separate Code offense.

HEARING OFFICER: The Hearing Officer shall be a neutral third party that has no direct connection to City or the person requesting a hearing. The Hearing Officer shall be a land use attorney or have similar qualifications.

OWNER: An individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

PERSON: A natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization.

~~25.02.~~ 25.03. ADMINISTRATIVE CITATION PROCEDURE.

- A) The City shall administer an administrative citation according to the following procedure:
- 1) Notice of Violation: Any member of the Wright County Sheriff's Department and any other persons employed by the city with authority to enforce this code shall, upon determining that there has been a violation, notify the violator or person responsible for the violation, either in person or by mail. The notice of the violation will set forth the nature and date of the violation, the name of the official issuing the notice, and a timeline to correct the violation if applicable.
 - 2) If, upon a follow-up inspection by the City, it's determined that the violation has not been corrected, the City may issue an administrative citation.
 - 3) Scheduling Penalties: Penalties shall be imposed for a violation of the scheduled administrative offenses according to a schedule established in the City's fee schedule as amended from time to time.
 - 4) Payment of Fine: The person responsible for the violation shall, within seven (7) days of the issuance of the notice, pay the full fine to the city administrator, or designee. The person may pay the fine in person or by mail, and payment shall be admission of the violation.
 - 5) Unpaid Fines: An unpaid fine will constitute a personal obligation of the person(s) to whom the citation was issued and the City shall have the right to collect the unpaid fine, together with the City's costs and reasonable attorney's fees, in criminal or civil proceedings.
 - 6) Assessment of Fine: Pursuant to M.S. §§ 429.101, 514.67 and other applicable law, a lien in the amount of the fine may be assessed against the property where the code offense occurred and collected in the manner of

taxes. Any such assessment shall not preclude the City from issuing additional citations for a continuing code offense, nor from making additional assessments for a continuing or new code offense.

- 7) Licenses or Permits: The City may suspend or revoke a license or permit or other approval associated with the code offense if the fine is not timely paid.

25.04. APPEAL TO CITY COUNCIL.

- A) Requesting a hearing. Any person contesting a citation issued pursuant to this chapter may, within fifteen (15) days of the issuance of the citation, request a hearing before the City Council. Any request for a hearing shall be made in writing.
- B) Hearing Officer: The City Council shall, by resolution from time to time, appoint a list of persons authorized to act as a Hearing Officer. The Hearing Officer is authorized to conduct an informal hearing to determine if a Code offense has occurred. The Hearing Officer may be compensated by the City for such hearings and related findings. The Hearing Officer shall have the authority to uphold or dismiss the citation or reduce, stay or waive the civil penalty imposed upon such terms and conditions as the Hearing Officer shall determine. The Hearing Officer's decision shall be made in writing on a form provided by the City for such purpose. A copy of the Hearing Officer's decision shall be served by United States first class mail upon the person requesting the hearing. The Hearing Officer's decision is final, except for appeal of the Hearing Officer's decision in limited cases to the City Council, as set forth herein.
- C) Conduct of hearing. At the hearing, the parties will have the opportunity to present testimony, documents and exhibits and question witnesses. The Hearing Officer shall tape record the proceedings and receive testimony and exhibits. Strict rules of evidence will not apply. The Hearing Officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- D) Appeal of Hearing Officer Decision:
 1. The Hearing Officer's decision shall be appealable to the City Council only for the following matters:
 - a. An alleged failure to obtain a required permit, license, or other approval from the City Council as required by this Code;
 - b. An alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license or approval, that was issued by the City Council; or
 - c. An alleged violation of regulations governing a person or entity who has received a license issued by the City Council.

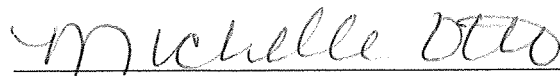
2. An appeal to the City Council of the Hearing Officer's decision must be made in writing on a form provided by the City for such an appeal and must be served on the City Clerk by United States first class mail, postage prepaid, within ten (10) days after the date of the Hearing Officer's decision.
3. A timely appeal will be heard by the City Council after a notice of hearing is served by the City upon the appellant in person or by certified mail at least ten (10) days in advance of the date of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.
4. The City Council shall consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The City Council is not bound by the Hearing Officer's decision; but may adopt all or part of the Hearing Officer's decision. The City Council's decision may be voted upon and given at the hearing or may be given in writing within fifteen (15) days of the hearing.
5. The failure of the appellant to appear in front of the City Council or participate in the appeal constitutes a waiver of the violator's right of appeal and an admission of the violation. The Council may waive the result upon good cause shown. The determination of a showing of good cause shown shall be made solely at the discretion of the City Council but does not include forgetfulness and intentional delay.

25.05. APPEAL OF CITY COUNCIL DECISION. The City Council's decision shall be appealable as provided for in state law

Section 4. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED this 9th day of March, 2020 by the City Council of the City of Montrose.

Moved by: Council Member Marszalek
Seconded by: Council Member Andreoff



Michelle Otto, Mayor

ATTEST:



Deb Boaltex, City Clerk

Published:
Zoning Ordinance Updated: