



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

Wednesday, February 12, 2020 – 7:00 PM

**Montrose Community Center
200 Center Avenue South
Montrose, Minnesota 55363**

1. Call to Order
2. Oath of Office
 - A. Mr. Shawn Cuff
3. Roll Call
4. Pledge of Allegiance
5. Approval of Agenda
6. Approval of Minutes
 - A. January 8, 2020 Planning and Zoning Commission Meeting Minutes
7. Old Business
 - A. Consider Administrative Fines and Abatement Process Ordinance Updates
8. New Business
 - A. City Planner Updates
9. Next Meeting
 - A. Wednesday, March 11, 2020 to be held at the Montrose Community Center - 7:00 p.m.
10. Adjournment

*** * Please note that a quorum of the City Council may be present
at the Planning and Zoning Commission Meeting. * ***

City of Montrose
 Planning and Zoning Commission Meeting
 Montrose Community Center
 200 Center Avenue South
 Wednesday, January 8, 2020
 7:00 P.M.

1. CALL TO ORDER

Pursuant to call and notice the Montrose Planning and Zoning Commission met in Regular Session on Wednesday, January 8, 2020 at 7:00 p.m.

Planning and Zoning Commission Chair, Ms. Tracy Gurneau, called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Commissioner Tracy Gurneau
 Commissioner Justin Emery
 Commissioner Sylvia Henry
 Commissioner Mike Scanlon
 City Council Liaison Lloyd Johnson

Staff Present: Ms. Deborah Boelter, City Clerk-Treasurer
 Mr. Ryan Gritman, City Planner

3. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

Commissioner Gurneau amended the Agenda to add item:

6. APPOINT OFFICERS

A. Chair

B. Vice-Chair

Commissioner Henry motioned to approve the January 8, 2020 Planning and Zoning Commission Meeting Agenda as amended. Commissioner Scanlon seconded the motion. Motion carried 4-0.

5. APPROVAL OF THE MINUTES

A. November 13, 2019 Planning and Zoning Commission Meeting

Commissioner Scanlon motioned to approve the Planning and Zoning Commission Meeting minutes of November 13, 2019. Commissioner Henry seconded the motion. Motion carried 4-0.

6. APPOINT OFFICERS

A. Chair

Commissioner Scanlon motioned to make Commissioner Gurneau Planning and Zoning Commission Chair. Commissioner Emery seconded.
 Commissioner Henry motioned to make Commissioner Scanlon Planning and Zoning Commission Chair. The motion was not seconded. The motion failed.

Ms. Boelter took a vote on the motion to make Commissioner Gurneau Planning and Zoning Commission Chair.

Motion carried 2-1-1. Commissioner Gurneau abstained. Commissioner Henry opposed.

B. Vice-Chair

Commissioner Emery motioned to make Commissioner Scanlon the Planning and Zoning Commission Vice-Chair. Commissioner Henry seconded the motion. Motion carried 3-1-0. Commissioner Scanlon abstained.

7. PUBLIC HEARING

A. Consider A Zoning Ordinance Amendment and City Code Amendment – Administrative Fines and Abatement of Nuisances

Commissioner Gurneau closed the Planning and Zoning Commission Meeting at 7:05 p.m. and opened the Public Hearing at 7:05 p.m.

Mr. Ryan Grittmann, City Planner, stated that at the request of the City Clerk-Treasurer, staff has been working to put together an Ordinance update related to administrative fines and the City's abatement process. The City currently has these Ordinances in place, however, in review of these Ordinances they are due for an update to make the language stronger.

Mr. Grittmann gave an overview of the proposed Ordinance updates:

Zoning Ordinance Update. Mr. Grittmann stated that staff is recommending that the Zoning Ordinance, Chapter 1003-9, have a section that states a violation of the Zoning Ordinance shall be considered a misdemeanor. This is the traditional method of dealing with zoning violations, and is specifically provided for in Minnesota State Statutes.

The issue with the misdemeanor process is that it is; essentially, a criminal procedure that requires a significant amount of investment on the part of the City, and which often results in difficulty in gaining long-term compliance. It is a critical aspect of the City's enforcement authority; but, is expensive, cumbersome, and requires a substantial amount of time.

Mr. Grittmann continued by stating that as a result, the City most often works to negotiate compliance through informal and formal notice of violations. Because of the difficulty of the formal charging process, it can be frustrating for the Community when waiting for the process to play itself out. While the City needs the force of the misdemeanor process to address significant issues or uncooperative violators, a simpler process is often preferred – at least to start. As such, the Administrative Fine process suggested in the proposed Ordinance drafts is being considered as an additional enforcement option.

Abatement Process. Mr. Grittmann stated that the City has an existing abatement process. Abatement is an effort of the City to correct a violation when the violator is resisting clean-up of a zoning violation. Examples might include ordering the mowing of unkempt weeds and grass, or removal of an abandoned junk vehicle. This remedy is included as an option for situations when the violation is time-sensitive, or it has a particular impact on the neighborhood in which it is located.

However, abatement can be complicated – especially when it requires entering private property to accomplish. Just as with the misdemeanor charge, abatement is an important aspect of the City's ability to address zoning violations; but, its cumbersome process can be difficult to address certain types of conditions.

Administrative Fines – an Interim Remedy.

Mr. Grittmann stated that staff is recommending that the City should impose an administrative citation first before an abatement occurs. The purpose of this format is to hopefully gain compliance without a drawn-out process of abatement or a court hearing.

As with most zoning violations, the City notifies the property owner of the violation, and seeks the owner's compliance in cleaning up the issue. This is typically done by verbal, and often written, notice. If compliance is not achieved following a reasonable time period, the Administrative fine process authorizes the City's designated official to issue an administrative citation. This citation includes a fine for failure to comply with the request for compliance.

Mr. Grittmann stated that as with any remedy, the property owner retains the right to appeal the citation to the City officials – in this case, the City Council.

If, however, an administrative citation is not enough to gain compliance, the City may move to abate the violation. The money gained from the previous citations is intended to help cover some of the costs of abatement.

Fine Schedule. Mr. Grittmann stated that the current Fee Schedule has zoning violations, nuisance violations, and similar offenses at \$100.00. It also notes that each day the violation remains is a new violation and fine.

City Code Violation. Mr. Grittmann stated that because the Administrative Fine method may be utilized for a variety of City Code issues, it is included in an amendment to both the Zoning Ordinance and the general City Code. The Zoning Ordinance reference merely identifies the use of administrative fines as a potential remedy option for zoning violations. The City Code amendment lays out the process to use in levying the citations and fines, including the appeal provisions noted above. Mr. Grittmann continued by stating that the Draft ordinances set up the structure and requirements of both amendments.

Mr. Grittmann stated that remedying code violations can be a difficult (and sometimes unpopular) function of City government. This can be particularly so when the violations that are discovered are important; but, don't rise to the level of requiring the extraordinary measures that result in a misdemeanor charge or an abatement action.

Mr. Grittmann stated that by adding the option for administrative citation and fine to the City's ordinances, the City gains the ability to work more expeditiously with certain types of code violation issues. It is the experience of several other communities that this process enables a more efficient code enforcement process.

Mr. Grittmann presented the Ordinance amendments.

Ms. Boelter asked Mr. Grittmann how other cities deal with entering properties to abate code violations. She continued by stating that the City of Montrose's Ordinance requires permission from the property owner to abate the property. Ms. Boelter stated that typically a property owner is not going to give the City permission to enter their property.

Mr. Grittmann stated that the proposed Ordinance amendments lay out the appeal process. He continued by stating that there are two (2) processes that can be taken to abate the property. One (1) would be a criminal charge and one (1) would be a civil charge.

Mr. Grittmann continued by stating that the criminal charge is a little bit cheaper. The City would charge them with a misdemeanor violation and take them to court. What typically happens is the property owner understands that they are likely going to lose the case and they do not want a misdemeanor criminal charge on their record. The problem with this process is that the City may not get any remediation results and the process has to start over again.

Mr. Grittmann stated that the civil route tends to cost the City more money. The City would sue the property owner for being in violation of the City's Code and/or Ordinances and ask a judge to direct them to clean-up the violation. The court will also tell the property owner that if they do not clean-up the violation, the City has the right to enter their property to abate the violation and all expenses to do so are the responsibility of the property owner.

Mr. Grittmann stated that in both cases, the majority of time the property owner does abate the violation and when this happens in civil cases, the City does not receive reimbursement for their attorney fees and other similar fees.

Commissioner Scanlon stated that the City has to prioritize. A swimming violation is much more egregious than junk cars in the yard.

Commissioner Scanlon stated that the Ordinances and Code need to be changed so that City staff does have something to fall back on and also gives them the tools to abate violations.

Commissioner Scanlon asked Mr. Grittmann if the Planning and Zoning Commission could get examples of other cities abatement and fining ordinances to review. Mr. Grittmann stated that he can bring some examples from other cities for the next Planning and Zoning Commission Meeting.

Commissioner Gurneau shared her concerns about notifying residents when they are in violation of the City's Zoning Ordinance and/or other City Code. Commissioner Gurneau recommended that the City staff send a letter once a week for three (3) weeks in a row and if the resident still does not comply with the City's request, the fourth letter should be sent by certified mail. After the fourth letter is sent and if the violation is not resolved, then it should be brought to the City Council.

Mr. Grittmann stated that the way a violation is addressed is going to depend on what type of violation it is and how immediately it needs to be abated.

Ms. Boelter stated that this would be too long of a period of time if there is an emergency violation that needs to be addressed immediately.

Commissioner Gurneau stated that she would like to see all violators be given the same amount of time to abate certain blighting conditions. Ms. Boelter stated that there is a set period of time for the remediation of tall grass and weeds and a longer period of time for junk, abandoned vehicles and etcetera. Ms. Boelter continued by stating that she lets residents know in the letters that are sent by the City, that if they need to discuss a remediation plan, they can contact the City and staff will work with them to develop a reasonable schedule that brings their property into compliance. Ms. Boelter stated that some residents do face financial and other hardships that may require them to take additional time to bring their property into compliance.

Commissioner Gurneau recommended that the number of days for remediation for each particular Code violation should be centralized in one (1) location in the Zoning Ordinance. Mr. Grittmann stated that the required number of days for each type of violation can be consolidated into one (1) location in the Ordinance.

Commissioner Scanlon stated that each situation may be different and the timeframe that they are allowed to remediate the violation may be determined by each individual situation.

Council Member Johnson asked if the violator will be fined \$100.00 per day for each day that they are over the deadline to bring their property into compliance.

Mr. Grittmann stated that the goal is to work with residents to help them bring their property into compliance before fining them and moving into the court process.

Mr. Grittmann stated that in his experience, most residents will clean-up their property when they receive a letter from the City.

Ms. Boelter stated that the City is taking efforts to help better educate residents on the Zoning Ordinance by providing information in the quarterly newsletter and on social media.

Commissioner Gurneau asked for clarification on who the "Code Compliance Officer" for the City would be and asked if it should be more specific; for example, should it say the City Clerk-Treasurer. Ms. Boelter stated that the City Attorney has asked that specific names and titles not be inserted into the City's Ordinances and Codes. He requested that it be a generic title; otherwise, the Ordinance needs to be amended every time an employee leaves the City.

Council Member Johnson asked if it should state Ms. Heidi Dahlin as the "Code Compliance Officer." Ms. Boelter stated no, that the City Clerk-Treasurer is the "Code Enforcement Officer." Council Member Johnson stated that the City hired Ms. Dahlin to do code enforcement. Ms. Boelter stated that Ms. Dahlin was hired to write the code enforcement letters and ride along with the City Clerk-Treasurer to help take pictures of blighting properties.

Commissioner Gurneau and Commissioner Scanlon asked about what individuals would be appointed to be the "Hearing Officer." Mr. Grittmann stated that the City Council would come up with a list of "Hearing Officers" that would serve as an arbitrator during a code enforcement hearing. Commissioner Scanlon asked for clarification on who has the qualifications to serve as a "Hearing Officer." Mr. Grittmann stated that it is typically a land use Attorney and they would not be affiliated with the City of Montrose. Commissioner Gurneau and Commissioner Scanlon recommended that the language be more specific and state a land use Attorney.

Commissioner Gurneau stated that at the February 12, 2020 Planning and Zoning Commission Meeting, the Commission will evaluate the information from other cities and work on amending the City of Montrose's Zoning Ordinance and Code to be brought to the City Council at a later date for their consideration.

Commissioner Henry stated that Mr. Dale Powers was working on a document that clearly defined who the Code Enforcement Officer was and what their roles and responsibilities were. Ms. Boelter stated that the document was never approved because there were some items that the City Council did not agree with.

Commissioner Gurneau asked for public comment.

Mr. Roy Henry, 600 Nelson Boulevard, addressed the Planning and Zoning Commission and shared his concerns regarding the upkeep of the buildings and grounds in the Montrose Homes Trailer Park.

Commissioner Gurneau closed the Public Hearing at 7:37 p.m. and opened the Planning and Commission Meeting at 7:37 p.m.

8. NO OLD BUSINESS.

9. NEW BUSINESS.

A. City Planner Updates

1. Preserve Housing Development

Mr. Grittmann gave an update on the proposed *Preserve Housing Development*.

B. Renewable Energy – Proposed Solar Farm

10. NEXT MEETING

A. Wednesday, February 12, 2020 to be held at the Montrose Community Center – 7:00 p.m.

11. ADJOURNMENT

Commissioner Henry motioned to the adjourn the Planning and Zoning Commission Meeting at 7:46 p.m. Commissioner Scanlon seconded the motion. Motion carried 4-0.

Tracy Gurneau
Chair
City of Montrose

ATTEST:

Deborah R. Boelter, CMC
City Clerk-Treasurer
City of Montrose



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MEMORANDUM

TO: Deb Boelter – City Administrator
 FROM: Ryan Grittmann – City Planner
 DATE: February 6, 2020
 RE: Administrative Fines, Abatement Process Ordinance Updates
 FILE NO: 273.02

BACKGROUND

At the January Planning Commission Meeting, the Planning Commission held a public hearing related to administrative fines and abatement process. The Planning Commission tabled action on the ordinance updates and directed staff to do the following:

- Create a definition for “Hearing Officer”.
- Provide a specific number of days to correct a violation.
- Provide a specific outline for a code enforcement procedure.
- Provide samples of ordinances from other communities.

For clarity, the ordinance changes that have occurred since the last meeting are in **red** text on the drafts.

ANALYSIS

Hearing Officer Definition. Staff has created a definition of Hearing Officer and placed it in the definitions section of the ordinance. “Land Use Attorney” and “neutral third party” have been included in the definition. The definition is provided in the general City Code, as that is where the enforcement and appeal process is described. The Zoning regulations refer to the City Code process.

Timeline to Correct Violation. The Planning Commission requested that the ordinance layout a specific timeframe for compliance. Staff has rewritten Section 1003-9-B.-7 and 1003-9-B.8 to create a more specific outline. The timeline is determined by the Zoning Administrator, unless otherwise stated by ordinance, and in general cases would be

expected to be 30 days. The Zoning Administrator would have the ability to shorten the timeline for compliance – this would typically be in the case of a significant emergency, or where appeal timing would be better served by some other specific requirement.

Provide a Specific Outline for Code Enforcement Procedure. Section 1003.-9-B.7 has been revised to provide a more specific code enforcement procedure that includes the City Attorney sending a notice by certified mail requesting a correction to the violation.

Sample Community Ordinances. Staff has provided the cities of Otsego and St. Francis. These examples are most typical of the ordinances relating to administrative fines and enforcement. The primary difference between these two examples is due to different codifiers. Most codes, where they have been adopted, follow these examples. Albertville's code, as an example, is nearly identical to the Otsego example, and as such, we did not reproduce it for this packet.

The Montrose proposed ordinance draws from these and other examples, fitting the material into the City's current code format.

CONCLUSION

Staff has assembled the additional materials requested by the Planning Commission. Hopefully, the revised drafts (both Zoning and City Code) reflect the direction of the Commission, and staff believes that the proposed language will serve the city well in this regard. As noted in previous correspondence, remedying code violations can be a difficult (and sometimes unpopular) function of City government. This can be particularly so when the violations that are discovered are important, but don't rise to the level of requiring the extraordinary measures that result in a misdemeanor charge or an abatement action.

By adding the option for administrative citation and fine to the City's ordinances, the City gains the ability to work more expeditiously with certain types of code violation issues. It is the experience of several other communities that this process enables a more efficient code enforcement process. Staff recommends the proposed language, and adoption of the same by the City Council.

ORDINANCE NO. 2020-_____
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.

A) 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.

B) 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:

- A) 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 and the amount of the scheduled initial penalty and, where applicable, any charges relating to the violation.
- 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.
- ~~B) Administration Procedure: The city administrator, or designee, shall adopt procedures for administering an administrative citation program.~~
- ~~C) 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 by Resolution of the City Council.~~
- D) 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.
- E) 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.

- F) 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.
- G) 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.

~~25.03.~~ 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.
- B) C) Conduct of hearing. At the hearing, the parties will have the opportunity to present testimony, documents and exhibits and question witnesses. The City Council 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.

~~25.04.~~ 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 ____ day of _____ 2020, by the City Council of the City of Montrose.

Michelle Otto, Mayor

ATTEST:

Moved by:
Seconded by:

Deb Boelter, City Clerk

Published:
Zoning Ordinance Updated:

ORDINANCE NO. 2020_____
CITY OF MONTROSE
COUNTY OF WRIGHT
STATE OF MINNESOTA

AN ORDINANCE AMENDMENT TO CHAPTER 1003-9 OF THE ZONING ORDINANCE
OF THE CITY OF MONTROSE, RELATED TO ADMINISTRATIVE FINES AND
ABATEMENTS

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 1003-9 Enforcement is amended as follows:

1003-9: ENFORCEMENT: This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City of Montrose any appropriate actions or proceedings against a violator. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. That person shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance and any other applicable sections of the City Code or City's Zoning Ordinance.

A. Violation. Any person who violates any provisions of the Montrose Zoning Ordinance shall be found guilty of a misdemeanor and shall, upon conviction, be charged pursuant to Sections 10 or 25 of the City Code, or other section as applicable. Each day that a violation exists shall constitute a separate offense.

A-B. Enforcement Procedure: For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail ~~or return receipt requested~~ to the property owner of which the violation is taking place. If necessary, a third letter shall be sent by the City Attorney by Certified Mail. A copy of the zoning violation notice shall be sent to the City Council, Planning Commission, Police Chief, and City Attorney. The zoning violation notice shall contain the following information:

1. A description of the violation which is taking place.
2. A picture (if possible) of the violation which is taking place.
3. Location and/or address of the property at which the violation is taking place. Montrose Zoning Ordinance 1003-8
4. Identification of the section of the Zoning Ordinance which is being violated.

5. Date the violation was discovered.
6. Steps necessary to correct the violation.
7. Unless the deadline for compliance is specifically noted by ordinance, the deadline in which the violation must be corrected, ~~will be at which is at~~ the discretion of the Zoning Administrator, ~~but which~~ In no case ~~may shall the~~ deadline be longer than thirty (30) days from the date the first notice is mailed.
8. If the subject site contains more than one violation, each violation shall be noted in each letter. In some cases, separate violations may be allotted a different amount of time for compliance. In no case, shall a violation be allotted more than thirty 30 days to comply.

B.C. Correction of the Zoning Violation: Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.

G.D. Failure to Correct Zoning Violation – Enforcement Remedies: Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:

1. Withhold Permits: The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.
2. Stop Work Order: The City shall have the authority to issue a stop work order on the subject violation.
3. Administrative Fine. The City shall have to authority to impose an administrative fine to the owner of record where the violation exists. The fine shall be in accordance with Chapter 25 of the City Code.
- ~~3.~~ 4. Abatement: The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice in accordance with Section 10.22 of the City Code.
- ~~4.~~ 5. Injunctive Relief: The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.
- ~~5.~~ 6. Civic Remedies: The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.

- ~~6.~~ 7. **Assessment:** The City shall have the authority to use the provisions of Minnesota State Statutes 429, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified. Montrose Zoning Ordinance 1003-9.
- ~~7.~~ 8. **Criminal Remedies:** The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance. Upon conviction, a fine of not less than two hundred dollars (\$200.00) shall be imposed for each day or part of a day that the violation occurs, starting ten (10) days from the date the Zoning Administrator placed in the custody of the U.S. Postal Service, the zoning violation notice, certified or return receipt requested. It shall be unlawful to violate a provision of this Ordinance.
- ~~8.~~ 9. **Cumulative Remedies:** The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

Section 2. Chapter 1016 is amended as follows:

1016-1: **PURPOSE:** The purpose of this Chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

1016-9: **SMOKE:** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017, as may be amended.

1016-10: **DUST AND OTHER PARTICULATE MATTER:** The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7011, as may be amended.

1016-11: **AIR POLLUTION:** The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

1016-12: **NOISE:** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as may be amended. In no case shall noise emanations constitute a nuisance as defined and regulated by this Code.

Section 3. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED this ____ day of _____ 2020, by the City Council of the City of Montrose.

Michelle Otto, Mayor

ATTEST:

Moved by:
Seconded by:

Deb Boelter, City Clerk

Published:
Zoning Ordinance Updated:

Chapter 5

ADMINISTRATIVE ENFORCEMENT PROVISIONS

1-5-1: INTENT AND PURPOSE:

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 this Code. The City retains the right, at its sole discretion, to enforce provisions of this Code 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. (Prior Code § 2-5-1)

1-5-2: 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 Otsego, or any person or company contracted to provide Code enforcement services who has received official authority by the Otsego 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 Otsego City Council from time to time and payable directly to the City Treasurer. Each day the violation exists constitutes a separate Code offense.

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. (Prior Code § 2-5-2)

1-5-3: PROCEDURE:

A. Administrative Notice: A Code Compliance Officer may issue, either in person or by United States first class mail, an administrative notice to a person suspected or known to have committed a Code offense and/or to be the owner of property upon which a Code offense is being committed. The administrative notice shall identify the Code offense, the location upon which the Code offense occurred or is occurring, and the recommended corrective action for the

Code offense. The administrative notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, up to fifteen (15) days to correct or abate the Code offense. If the alleged violator and/or owner of property upon which a Code offense is being committed is unable to correct or abate the Code offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration. If the Code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation, as provided in subsection B of this section.

- B. Citation: A Code Compliance Officer is authorized to issue a citation upon the belief that a Code offense has occurred, whether or not an administrative notice has first been issued in regard to said Code offense. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail. Said citation shall state the nature of the Code offense, the time and date said Code offense occurred, the civil penalty applicable to that Code offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a Hearing Officer to contest the citation.
- C. Response To Citation; Payment Of Penalty: Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within fifteen (15) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in this chapter. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days. Payment of the civil penalty shall be deemed to be an admission of the Code offense. (Prior Code § 2-5-3)

1-5-4: APPEALS:

A. Appeal To Hearing Officer:

1. Request For Hearing; Hearing Held: Any person contesting a citation issued pursuant to this chapter may, within fifteen (15) days of the time of issuance of the citation, request a hearing before a Hearing Officer. Any request for a hearing before a Hearing Officer shall be made in writing on a form provided by the City for such a request and either delivered personally to the City at City Hall or mailed to the City by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days. The hearing shall be held at City Hall within thirty (30) days of the date the City received a timely written notice that a hearing has been requested. Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. A determination of good cause shall be made by the Hearing Officer, but does specifically not include forgetfulness or intentional delay.
2. 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.

3. 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. (Prior Code § 2-5-4)

B. 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. (Prior Code § 2-5-5)

1-5-5: FAILURE TO PAY AND CORRECT AND ABATE THE OFFENSE:

- A. An unpaid civil penalty and accrued late charges will constitute a personal obligation of the person(s) to whom the citation was issued, and the City shall have the right to collect such unpaid civil penalty and accrued late charges, together with the City's costs and reasonable attorney fees, in criminal or civil proceedings.
- B. Pursuant to Minnesota Statutes section 429.101, Minnesota Statutes section 514.67 and other applicable law, a lien in the amount of the civil penalty and any accrued late charges may be assessed against the property where the Code offense occurred and collected in the same manner as taxes. Any such assessment shall not preclude the City from issuing additional citations for a continuing Code offense, nor shall it preclude the City from making additional assessments against the same property resulting from a continuing or new Code offense.
- C. The City may suspend or revoke a license or permit or other approval associated with the Code offense if the civil penalty and accrued late charges are not timely paid. (Prior Code § 2-5-6; amd. Ord. 2018-13, 12-10-2018, eff. 1-1-2019)

SECTION 11. - ADMINISTRATIVE ENFORCEMENT OF CODE REGULATIONS

(Ord. 174, SS, 9-24-2012)

2-11-1. - Purpose and intent.

The administrative enforcement procedures established within this Chapter are intended to provide the City of St. Francis with an informal, cost-effective and more efficient supplement or alternative to criminal prosecution or civil litigation for certain violations of the adopted City Code. The City of St. Francis retains the right, at its sole discretion, to enforce provisions of this Code 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 that such a process is a legitimate and necessary alternative method of enforcing Code violations.

2-11-2. - General provisions.

- A. *Administrative Offenses.* Any violation of any section or chapter of the City Code, and any violation of the terms and/or conditions of any license, permit, or other approval issued pursuant to the City Code, is an administrative offense that may be subject to an administrative citation and administrative fines.
- B. *Continuing Violations.* Each day a violation exists constitutes a separate and distinct offense for which a separate penalty can be imposed. The City Administrator can exercise discretion in imposing an administrative fine for more than one day of a continuing offense.
- C. *Schedule of Fines.* The City Council shall adopt by ordinance, as part of the fee schedule, a schedule of administrative fines for offenses for which an administrative citation is issued. A current fee schedule shall be kept on file at City Hall.
- D. *No Limitation on Remedies.* Nothing herein is intended or shall require the City to utilize the administrative citation process or otherwise pursue the remedies outlined in this section. The City retains the right to pursue any and all other remedies authorized by law to enforce the City Code or penalize violations of city ordinances, including, but not limited to, issuance of a stop work order, abatement, criminal prosecution, and/or application for civil penalties or injunctive relief.
- E. *Code Compliance Officer.* The Code Compliance Officer shall be any person so appointed to carry out such duties so assigned by the City Administrator including but not limited to the Building Official, Zoning Administrator, Public Works Director, City Clerk, Fire Chief, and any member of the Police Department.

2-11-3. - Procedure.

- A. *Administrative Notice.* A Code Compliance Officer may issue, either in person or by United States first class mail, an administrative notice to a person suspected, alleged or known to have committed a code offense and/or to be the owner of property upon which a code offense is being committed. The Administrative Notice shall identify the code offense, the location upon which the code offense is alleged to have occurred or is occurring, and the corrective action for the code offense. The administrative notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, no more than twenty (20) days to correct or abate the code offense. Immediate compliance may be required upon the existence of a public health or safety condition. If the alleged violator and/or owner of property upon which a code offense is being committed is unable to correct or abate the code offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration, which shall be determined at the discretion of the Code Compliance Officer. If the code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time or any

extension thereto, the Code Compliance Officer may issue a citation, as provided in Section 2-11-3-C.

- B. *Exceptions to Administrative Notice.* For violations of any of the following sections, the City shall not be required to issues an administrative notice or compliance letter and may proceed directly to an administrative citation as provided for in Section 2-11-3-C:
 - 1. *Repeat Offenders.* If the same owner or person commits a subsequent violation within twelve (12) months of after an administrative notice or citation has been issued for the same or similar offense, no compliance letter or administrative notice shall be required for the new violation.
 - 2. *License Violations.* For any license violations, including not having a license, no compliance letter or administrative notice shall be required.
- C. *Citation.* Upon receiving no response or continued noncompliance following issuance of the administrative notice or code compliance letter as stated in Section 2-11-3-A, the Code Compliance Officer may issue a citation. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the alleged violation has occurred, either by personal service or by United States first class mail. Said citation shall state the nature of the code offense, the time and date said alleged code offense occurred, the civil penalty applicable to that code offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a hearing officer to contest the citation.
- D. *Responding to a Citation.* Once a citation is issued, the alleged violator and/or the owner of the property upon which the alleged violation has occurred shall, within ten (10) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in Section 2-11-4-A. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within said prescribed fourteen (14) days. Payment of the civil penalty shall be deemed to be an admission of the code offense.
- E. *Payment of Penalty.*
 - 1. *Payment of a Penalty and Correction of Violation.* If the owner pays the administrative civil penalty and corrects the City Code violation, no further action will be taken against the owner or the owner's real property for that same violation.
 - 2. *Payment of Penalty without Correction of Violation.* If the owner pays the administrative civil penalty but fails to correct the City Code violation, the City may issue subsequent administrative citations, initiate criminal proceedings, or initiate any other proceeding or remedies available in order to enforce correction of the City Code violation.
 - 3. *No Payment of Penalty and No Correction of Violation.* If the owner fails to pay the administrative civil penalty but fails to correct the City Code violation, the City may do any of the following, or any combination thereof:
 - a. Assess the administrative civil penalty against the property pursuant to Minnesota Statutes Chapter 429.
 - b. Issue a subsequent administrative citation, thereby commencing a new administrative penalties process.
 - c. Initiate criminal proceedings.
 - d. Initiate any other enforcement action authorized by law.

2-11-4. - Appeal and hearing.

- A. *Requesting a Hearing.* Any person receiving an administrative citation may contest the alleged violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the owner or individual contesting the citation must notify the City Clerk in

writing within ten (10) calendar days after the citation is mailed or otherwise delivered. The written request shall state the name of the individual, indicate whether they are contesting the alleged violation, the amount of the penalty, or both and must also specify the reason and facts upon which the individual is contesting the citation.

- B. *Hearing Officer.* The hearing officer shall be a neutral third party appointed by the City Council and shall preside over the hearing and make any judgment as authorized by Section 2-11-4-D.
- C. *Conduct at Hearing.* A hearing officer shall conduct an informal hearing to determine if a violation has occurred. The hearing officer shall consider the record and any additional evidence presented at the hearing and accepted into the record by the hearing officer before making a determination. The officer shall receive and give weight to evidence, including hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The City will have the burden of proving the existence of a violation and the reasonableness of any required corrective action by a preponderance of the evidence. The determination of the enforcement officer will be given substantial weight by the hearing officer in determining the reasonableness of any required corrective action.
- D. *Authority of Hearing Officer.* The independent hearing officer has the authority to do any of the following, or a combination thereof:
 1. Make a finding that a violation has occurred;
 2. Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
 3. Require compliance with the City Code within a specified timeframe;
 4. Make a finding that no violation has occurred and dismiss the administrative citation.
- F. *Owner/Individual Found in Violation.* If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed plus an additional administrative hearing fee as prescribed by the City's Fee Schedule to cover the cost of the hearing within fourteen (14) days of the date of the decision.
- G. *Failure to Appear.* Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. If the owner fails to appear, the administrative citation shall be sustained. If the City fails to appear, the administrative citation shall be dismissed.

2-11-5. - Judicial review.

The Hearing Officer's decision is final without any further right of administrative appeal. Further appeal shall be to the Minnesota Court of Appeals under the Minnesota Rules of Civil Procedure.

2-11-6. - Violation a misdemeanor.

The following are misdemeanors, punishable in accordance with state law:

- A. Failure to pay an administrative fine imposed by administrative citation within fourteen (14) days after it has been imposed unless the matter is appealed to the City as provided herein.
- B. Failure to pay an administrative fine within fourteen (14) days after it has been imposed by the hearing officer, or such other time as may be established by the hearing officer, unless the matter is appealed to district court as provided herein. If the final determination in the administrative penalty process is a finding that no violation occurred, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal prosecution for a violation for the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.