



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

Wednesday, January 8, 2020 – 7:00 PM

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

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes
 - A. November 13, 2019 Planning and Zoning Commission Meeting Minutes
6. Public Hearing
 - A. Consider A Zoning Ordinance Amendment and City Code Amendment –
Administrative Fines and Abatement of Nuisances
7. Old Business
8. New Business
 - A. City Planner Updates
9. Next Meeting
 - A. Wednesday, February 12, 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, November 13, 2019
 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, November 13, 2019 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 Grittmann, City Planner

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

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

5. APPROVAL OF THE MINUTES

A. October 9, 2019 Planning and Zoning Commission Meeting

Commissioner Henry motioned to approve the Planning and Zoning Commission Meeting minutes of October 9, 2019. Commissioner Scanlon seconded the motion. Motion carried 4-0.

6. PUBLIC HEARING

A. Consider An Interim Use Permit – Solar Farm

1. Consider An Interim Use Permit (I.U.P.) for a Proposed Solar Farm

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 Renewable Properties, Limited Liability Corporation (LLC) has requested to lease property at the City's Wastewater Treatment Plant (WWTP) to install a Solar Farm and would need approval of an Interim Use Permit (I.U.P.).

Mr. Grittmann continued by stating that at the Tuesday, November 12, 2019 Regular City Council Meeting the City Council did approve a *Letter of Intent (LOI) to Lease Real Estate* the LOI to negotiate a lease with Renewable Properties, LLC.

Mr. Grittmann presented a map to the Planning and Zoning Commission that detailed the two (2) land options available at the WWTP.

Commissioner Scanlon asked if Renewable Properties, LLC wanted to lease five (5) acres for a Solar Farm. Mr. Grittmann stated yes.

Commissioner Gurneau asked how long the land lease would be. Mr. Grittmann stated that the land lease for a Solar Farm is typically twenty-five (25) to thirty (30) years.

The Planning and Zoning Commission discussed their concerns about Renewable Properties, LLC removing the solar equipment at the end of the lease. Mr. Grittmann stated that one of the conditions of the land lease would be that they would be required to remove all equipment. Ms. Boelter stated that cities often collect a large escrow from the Solar Company; so, if they do not remove the equipment, the City has funding available to remove it.

The Planning and Zoning Commission discussed the two (2) land options available for lease and agreed to option one (1). Commissioner Scanlon stated that option 1 would make the Solar Farm less visible to the general public. Mr. Grittmann stated that Renewable Properties, LLC was in favor of option 1; because, it would put the Solar Farm adjacent to Xcel Energy's power lines.

Commissioner Scanlon asked who benefits from the proposed Solar Farm. Mr. Grittmann stated that Xcel Energy would benefit from the solar power generated at the WWTP site.

Council Member Johnson asked if Renewable Properties, LLC was associated with the Sunshare Solar Farm located east of the WWTP. Mr. Grittmann stated that they are not associated.

Council Member Johnson asked if the Solar Farm will affect property values of the houses located in the area. Mr. Grittmann stated that it should not affect the property values; especially, if option 1 is the location of the Solar Farm. He continued by stating that option 1 will not be as visible to the general public.

Commissioner Gurneau asked for public comment.

Mr. Roy Henry, 600 Nelson Boulevard, addressed the Planning and Zoning Commission. Mr. Henry shared his concerns about locating the Solar Farm on the property at the WWTP; because, it may hinder future expansion of the WWTP's Holding Ponds with the continued growth in the City of Waverly and the City of Montrose. Ms. Boelter stated that the WWTP's Holding Ponds have many years of capacity into the future before there will need to be an expansion. Commissioner Scanlon stated that if the WWTP needs to be expanded, the expansion will be mechanical and not additional holding ponds.

Commissioner Gurneau closed the Public Hearing at 7:20 p.m. and opened the Planning and Commission Meeting at 7:21 p.m.

Commissioner Henry motioned to recommend that the Montrose City Council approve an Interim Use Permit (I.U.P.) for the installation of a Solar Farm by Renewable Properties, Limited Liability Corporation (LLC) at the site of option one (1); the property adjacent to the City of Montrose's Wastewater Treatment Plant. Commissioner Scanlon seconded the motion. Motion carried 4-0.

7. NO OLD BUSINESS.

8. NEW BUSINESS

A. Discussion – Future Ordinance Updates

Ms. Boelter stated that she would like to look at the area of the Zoning Ordinance that regulates the fine process. She continued by stating that the current Ordinance does not have a strong enough fine process in regards to properties that are not in compliance with the City's Zoning Codes.

Mr. Grittmann stated that the City's Zoning Ordinance currently has the first (1st) offense receiving a fine of \$100.00, the second (2nd) offense is fined \$200.00 and then the Ordinance flatlines when it comes to future fines.

Ms. Boelter stated that she is hoping Mr. Grittmann can propose a fine process that is similar to some of the other cities that he and his Firm, Northwest Associated Consultants (NAC), work with.

The Planning and Zoning Commission discussed updates to the City's Zoning Ordinance in regards to the fine process and agreed to address amendments to this area of the Zoning Ordinance.

B. City Planner Updates

1. Preserve Housing Development

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

2. Sign Ordinance

Mr. Grittmann stated that the City Council made one (1) amendment to the Sign Ordinance. He continued by stating that the City Council has asked that the Ordinance be amended to allow for *Motion Signs* in Commercial Districts.

The Planning and Zoning Commission discussed and were in agreement with the City Council's recommendation to amend the Sign Ordinance to allow *Motion Signs* in Commercial Districts.

Mr. Grittmann stated that he will make the amendment to allow *Motion Signs* to the Sign Ordinance and provide City staff with the corrected and final copy.

C. Resignation of Commissioner Mr. Barry Rhineberger

Ms. Boelter stated that Mr. Barry Rhineberger has resigned from the Planning and Zoning Commission; because, he has moved out of the City of Montrose.

9. NEXT MEETING

A. Wednesday, December 11, 2019 to be held at the Montrose Community Center – 7:00 p.m.

Commissioner Gurneau recommended that the Wednesday, December 11, 2019 Planning and Zoning Commission Meeting be cancelled and that the Commission meet again on Wednesday, January 8, 2020 to begin working on amendments to the fine process in the Zoning Ordinance.

Commissioner Emery motioned to cancel the Wednesday, December 11, 2019 Planning and Zoning Commission Meeting. Commissioner Scanlon seconded the motion. Motion carried 4-0.

10. ADJOURNMENT

Commissioner Henry motioned to the adjourn the Planning and Zoning Commission Meeting at 7:35 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

CITY OF MONTROSE
COUNTY OF WRIGHT
STATE OF MINNESOTA
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Montrose Planning and Zoning Commission will hold a Public Hearing at 7:00 p.m. or soon thereafter on Wednesday, January 8, 2020 at the Montrose Community Center, located at 200 Center Avenue South in the City of Montrose, for the purpose of considering a Zoning Ordinance amendment and City Code amendment related to Administrative Fines and the Abatement of Nuisances.

Notice is further given that any written or oral comments from citizens regarding the proposed amendments will be heard at the Public Hearing. All interested persons are invited to attend the Meeting and will be afforded the opportunity to speak on the proposed amendments during the Public Hearing. If you wish to provide written comment, please send correspondence to rgrittman@nacplanning.com. If you wish to receive more information on the amendments, please call Ryan Grittman, City Planner, at 651-726-7296.

Deb Boelter
Montrose City Administrator

Date of Posting: **Wednesday, December 4, 2019**

Date of Publication: **Thursday, December 26, 2019**



NORTHWEST ASSOCIATED CONSULTANTS, INC.

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Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM

TO: Deb Boelter – City Administrator
FROM: Ryan Grittman – City Planner
DATE: January 3, 2020
RE: Administrative Fines, Abatement Process Ordinance Updates
FILE NO: 273.02

BACKGROUND

At the request of the City Administrator, 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.

ANALYSIS

Zoning Ordinance Update. Staff is recommending that the zoning ordinance, Chapter 1003-9, has 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 State law.

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.

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 attached ordinance drafts is being considered as an additional enforcement option.

Abatement Process. 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.

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.

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. The current fee schedule has zoning violations, nuisance violations, and similar offenses at \$100. It also notes that each day the violation remains is a new violation and fine.

City Code Violation. 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 be used in levying the citations and fines, including the appeal provisions noted above. The attached draft ordinances set up the structure and requirements of both amendments.

CONCLUSION

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.

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. 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. Deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than thirty (30) days from the date the first notice is mailed.

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. 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

Moved by:
Seconded by:

ATTEST:

Deb Boelter, City Clerk

Published:
Zoning Ordinance Updated:

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.

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.~~
- ~~G) 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

Moved by:

ATTEST:

Seconded by:

Deb Boelter, City Clerk

Published:
Zoning Ordinance Updated: