



**MONTROSE  
PLANNING AND ZONING COMMISSION MEETING  
AGENDA**

**Wednesday, June 10, 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. March 11, 2020 Planning and Zoning Commission Meeting Minutes
6. Old Business
  - A. Renewable Properties, Limited Liability Corporation (LLC) – Solar Farm Lease
    - i. Planning and Zoning Resolution No. 2020-01 – A Resolution Approving a Letter of Intent for a Solar Farm Located at Parcel Identification (PID) 112-500-012302 Within the City of Montrose
7. New Business
  - A. Food Truck Regulations and Ordinance
  - B. City Planner Updates
8. Next Meeting
  - A. Wednesday, July 8, 2020 to be held at the Montrose Community Center - 7:00 p.m.
9. 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, March 11, 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, March 11, 2020 at 7:00 p.m.

Planning and Zoning Commission Vice Chair, Mr. Mike Scanlon called the meeting to order at 7:00 p.m.

**2.. ROLL CALL**

Present: Commissioner Mike Scanlon  
 Commissioner Shawn Cuff  
 Commissioner Justin Emery  
 City Council Liaison Lloyd Johnson

Staff Present: Ms. Wendy Manson, Deputy Clerk  
 Mr. Ryan Grittmann, City Planner

**3. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was taken.

**4. APPROVAL OF THE AGENDA**

**Commissioner Emery motioned to approve the March 11, 2020 Planning and Zoning Commission Meeting Agenda. Commissioner Cuff seconded the motion. Motion carried 3-0.**

**5. APPROVAL OF THE MINUTES**

A. February 12, 2020 Planning and Zoning Commission Meeting

**Commissioner Emery motioned to approve the Planning and Zoning Commission Meeting minutes of February 12, 2020. Commissioner Cuff seconded the motion. Motion carried 3-0.**

**6. NO OLD BUSINESS**

**7. NEW BUSINESS.**

A. Zoning Ordinance Review – Short-Term Rentals

Mr. Grittmann stated that as a part of staff's general ordinance review, the Planning and Zoning staff has suggested examining the issue of short-term rentals of residential property. This issue has arisen in a number of areas where properties have been utilized for transient rentals for shorter durations, rather than long-term leaseholds. Short term rentals (often rented for periods of a day or two (2), or less than one (1) month), are often accessed by renters through services such as Airbnb, Home Away, or several other similar providers.

Mr. Grittmann continued by stating that most short-term rentals are utilized for tourism purposes. However, even in non-tourist areas, houses can be attractive targets for rental use, particularly during slower economic periods when house sales can slow.

Currently, the City of Montrose does not have any ordinance surrounding the licensing or regulation of short-term rentals. Private homeowners who are seeking to operate a short-term rental business are instead required to following the licensing and public health standards of the State of Minnesota, usually regulated through County Health departments similar to hotels. In practice, most do not maintain that level of licensing or inspection.

Mr. Grittmann stated that he has researched these regulations, as well as ordinances and zoning studies conducted by communities and presented the following information to the Planning and Zoning Commission as a baseline for discussing potential regulations.

#### **CONTEXT:**

Mr. Grittmann stated that the short-term rentals have exponentially grown in popularity since the State Legislature of Minnesota organized a taskforce led by *Explore Minnesota Tourism* to explore their impact back in the year 2009. Services like Airbnb or Vacation Rental By Owner (VRBO) allow homeowners to easily market and rent out rooms or entire houses for anything from a few nights to a month. The popularity of these shared economy lodging options has begun to challenge more traditional services such as hotels and dedicated bed and breakfasts. Globally, around 150 million people use Airbnb, and since the year 2008, there have been over 260 million separate bookings.

Mr. Grittmann stated of the greatest strengths of the shared-economy style of temporary lodging is its impacts on local economies. Similarly to hotels, short-term rentals can bring in tourism to an area, expanding the area's consumer base and creating new demand for restaurants, entertainment, and other activities. But unlike hotels, money spent renting a room through Airbnb, goes to the homeowner, not a national or international corporation. Airbnb hosts can use money earned from renting rooms to supplement their existing income, increasing their overall spending power. Recent research has shown that one of the fastest increasing demographics for new Airbnb hosts is amongst senior homeowners. Many retirees find themselves with extra room after children have left to start their own families, and vacation rentals can be a tempting way to supplement fixed incomes.

Mr. Grittmann continued by stating that however short-term rentals are not without their complexities and issues. Governing bodies at every level understand that in the same way that restaurants and hotels need to be regulated, so do short-term rental properties. The *Explore Minnesota* taskforce identified concerns with short-term rentals and divided them into two categories: legal and land use.

Legal and Regulatory Concerns	Practical and Land Use Concerns
<ul style="list-style-type: none"> <li>• Payment of federal, state and local taxes</li> <li>• Licensing by the Minnesota Department of Health</li> <li>• Building code requirements such as the Americans with Disabilities Act</li> <li>• Septic, plumbing and water quality compliance</li> <li>• Fire safety</li> <li>• Capacity issues</li> <li>• Zoning compliance (commercial or residential)</li> <li>• Identifying and posting contact information on management</li> <li>• Insurance requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Overcrowding/maximum occupancy</li> <li>• Maintenance</li> <li>• 24-hour-per-day contact availability with local manager for guests and neighbors</li> <li>• Noise</li> <li>• Business signage</li> <li>• Parking capacity/RV parking</li> <li>• Driving responsibly</li> <li>• Garbage</li> <li>• Responsible use of recreational equipment</li> <li>• Outside camping</li> <li>• Trespassing</li> <li>• Malicious complaints</li> <li>• Licensing process</li> <li>• Enforcement</li> </ul>



## **EXISTING REGULATIONS:**

### ***State Regulations***

Mr. Grittmann stated that in light of these concerns, the first line of defense in ensuring high-quality short-term rentals, are State-level regulations. The Minnesota Department of Health (MDH) is the agency which handles the licensing, inspection, and regulation of all lodging establishments. Short-term rentals are considered by the State to fall into the category of Vacation Home Rentals, which are established as having one (1) or more units, and can be rented for as little as a single day. Just like any other lodging establishment. Vacation home rentals are required to be licensed through the State annually, and this requires the payment of a fee and an inspection carried out by the MDH.

Fees for licensing and operating a vacation rental are variable depending on a number of factors but generally encompasses the following. Licensing fees are laid out in Minnesota State Statute 157.16.

Fee Type	Fee Amount
Base Application Fee	\$165
Lodging Establishment Fee	\$11 per sleeping accommodation unit
Private Sewer or water	\$60
Statewide Hospitality Fee	\$40

Mr. Grittmann additional fees would apply if the rental included any sort of food service; but, this is atypical of most vacation home rentals. In addition, operating a lodging establishment without a license or after a license has expired has a fee of \$120, and this fee becomes \$360 after thirty (30) days have passed.

Mr. Grittmann continued by stating that inspections are conducted upon lodging establishments with varying frequency depending on the level of public health risk the establishment presents. Most "high-risk" establishments are food-service oriented; but, also include any property that utilizes a surface water supply for drinking water. This is more applicable to more rural cabin rentals than suburban vacation home rentals however. The majority of vacation homes would be considered "low-risk" and would therefore be inspected every twenty-four (24) months. Rentals would have to meet the requirements for lodging establishments laid out in chapter 4625 of Minnesota's Administrative Rules.

### ***Example City Regulations***

Mr. Grittmann stated that in addition to the broader state level controls placed upon the operation of short-term rental vacation homes, some cities and townships in Minnesota have also established their own ordinance language. The cities below are not a comprehensive list of every local community in the State which has placed regulations on short-term rentals. The following are a selection of communities which have utilized different methods of regulating short-term rentals:

#### **City of Orono**

Mr. Grittmann stated that Orono is a city on Lake Minnetonka. Orono regulates short-term rentals as part of their full rental licensing ordinance. In order to lease a rental unit for a period of less than thirty (30) days in Orono, a set of conditions must be met in order to receive a short-term rental license.

- ✓ All general license standards
  - The owner shall provide the city and any tenant with a twenty-four (24)-hour emergency contact that will be available to respond to complaints regarding the condition, operation, or conduct of occupants of a rental unit at the rental property within sixty (60) minutes.
  - The rental property must have a visible house number that can be easily seen by from the street both day and night.



- All advertising for the rental shall include the city issued license number.
- The primary overnight and daytime occupant of a rental unit must be an adult eighteen (18) years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.
- Minimum of two (2) off street parking spaces shall be provided. The maximum number of vehicles allowed at a rental property shall be limited to the number of available off-street parking spaces.
- The owner of a rental property shall provide sufficient trash collection containers and service to meet the demands of the occupants.
- ✓ The short-term rental dwelling unit is located in a home that is homesteaded and owner occupied.
- ✓ The short-term rental dwelling unit to be rented is no more than two (2) bedrooms.

Mr. Grittmann stated that in addition to needing to meet this list of standards before being eligible to receive a rental license, applicants can be denied by the City for other reasons; such as, having had a different rental license revoked within the last year. The City will conduct inspections of rental properties if it receives complaints or in the case of code violations. In regards to all rental properties, Home owners are held responsible to ensure that their tenants do not engage in disorderly use of the property. Section. 26-87 of the rental license ordinance states that in cases where tenants are creating unreasonable noise or disorder, "Owners are expected to take any measures necessary to abate disturbances including, but not limited to, directing the occupants and guests of a rental to cease the disturbing conduct, removing the occupant and/or guest or taking any other action necessary to immediately abate the disturbance."

#### **Key Takeaways:**

- ❖ Short-term rental ordinance is part of larger rental licensing ordinance
- ❖ Parking controls to mitigate traffic concerns
- ❖ Limits vacation rentals in size to two (2)-bedrooms or less
- ❖ Controls for disorderly use by renters
- ❖ Prohibits full-house use of the property as rental only – requires owner occupancy

#### City of Minnetrista

Mr. Grittmann stated that Minnetrista is another city abutting Lake Minnetonka, and unlike Orono elected to outright prohibit short-term rentals within the city. Chapter 505.05 Subdivision 16 of their city code details the terms of the prohibition. Minnetrista decided to prohibit short-term rentals on the grounds that they were a commercial use existing in residential areas, and would disrupt the quality of life and character of these residential neighborhoods. The city stated that it had received complaints regarding existing short-term rental properties, which spurred the prohibition.

Mr. Grittmann stated regarding enforcement, owners, operators and even tenants can be charged with a misdemeanor for violating this section of the city code, and penalties and fines may be levied against the parties in question. In addition, short-term rentals qualify in the city code as a public nuisance as defined in Chapter 15 of the city's code, and the city can pursue abatement measures against the property as such.

He continued by stating that one measure the city did put in place was for the implementation of the ordinance and allowing for time to transition existing short-term rental properties. Minnetrista gave until the end of the calendar year of adoption before any enforcement actions would be taken against short-term rental properties. This measure gives some amount of leeway to existing

properties, and a few months in which to either sell the property or convert it to a traditional long-term rental property.

### **Key Takeaways:**

- ❖ Prohibiting short-term rentals can be a solution to large amounts of complaints
- ❖ Key concerns of short-term rentals are noise, over-crowding and traffic
- ❖ If pursuing full prohibition, allow for a grace period to allow operators time to adjust to new ordinance

### **STAFF SUMMARY AND RECOMMENDATION:**

Mr. Gritman stated that a brief search of a few of the most popular sites shows that Montrose has almost no short-term rental properties within the City; however, the opportunity exists to preemptively create City regulation for short-term rental practices. Mr. Gritman recommended two (2) options for the City to consider.

#### **Option 1: Regulate Short-Term Rental Units**

Mr. Gritman stated that allowing for short-term rental units creates new economic opportunities for rental operators as well as local businesses that would be patronized by visitors to the City; however, in order to avoid the pitfalls associated with short-term vacation homes, the City should establish a set of license and operating standards; as well as, strict enforcement guidelines. Rental operators will need to operate within these parameters or face legal and financial recourse.

If the City chooses to allow short-term rentals, one of the threshold questions will be whether the City permit any house to be put to this use, or if the house will need to be owner-occupied, with short term rental happening as an accessory activity.

#### **Option 2: Prohibit Short-Term Rental Units**

Mr. Gritman stated that in order to avoid fully any potential negative impacts from short-term vacation rentals, the City could choose to disallow any units being rented for a period of less than thirty (30) days. Traditional lodging establishments like motels or bed and breakfasts would still be allowed outside of residential districts.

At the direction of the Planning and Zoning Commission and/or staff, Mr. Gritman stated that he will proceed to develop draft ordinance language for Commission consideration at its next meeting, utilizing the direction received at this meeting.

The Planning and Zoning Commission Members discussed the information that Mr. Gritman presented and were in agreement that the City did not need to take any action on a Short-Term Rental Ordinance at this time.

### **B. City Planner Updates**

#### **1. Renewable Energy – Proposed Solar Farm**

Mr. Gritman stated that at the Monday, March 9, 2020 Regular City Council Meeting, Council Member Johnson asked that the proposed Solar Farm that Renewable Energy wants to install be brought back to the Planning and Zoning Commission for discussion.

Mr. Gritman stated that the proposed Solar Farm will be on the Wednesday, April 8, 2020 Planning and Zoning Commission Meeting Agenda for discussion.

#### **2. Ordinance Amendments – Administrative Fines and Abatements**



Mr. Gritman stated that Ordinance No. 2020-02 – *An Ordinance Amendment to Chapter 1003-9 of the Zoning Ordinance of the City of Montrose, Related to Administrative Fines and Abatements* and Ordinance No. 2020-03 – *An Ordinance Amendment to Chapter 10, General Penalty and 25, Administrative Enforcement of the Montrose City Code* were both adopted by the City Council at their Monday, March 9, 2020 Regular City Council Meeting.

3. The Preserve Housing Development

Mr. Gritman gave an update on *The Preserve Housing Development*.

8. **NEXT MEETING**

A. Wednesday, April 8, 2020 to be held at the Montrose Community Center – 7:00 p.m.

9. **ADJOURNMENT**

Commissioner Emery motioned to the adjourn the Planning and Zoning Commission Meeting at 7:20 p.m. Commissioner Cuff seconded the motion. Motion carried 3-0.

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Mike Scanlon  
Vice Chair  
City of Montrose

ATTEST:

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

**NORTHWEST ASSOCIATED CONSULTANTS, INC.**

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422  
Telephone: 763.957.1100 Website: [www.nacplanning.com](http://www.nacplanning.com)

**MEMORANDUM**

TO: Montrose Planning Commission  
FROM: Ryan Gritman  
DATE: June 4, 2020  
RE: Montrose – Solar Farm Lease / Letter of Intent  
FILE NO: 273.02

Attached please find the Letter of Intent (LOI) to lease the City's property for a Solar Farm development with Renewable Properties, LLC. The City Attorney has reviewed the proposal and made comments. Those comments have been incorporated into the Letter of Intent. Renewable Properties has executed the LOI and is awaiting the City's signature.

The City Council has requested that the Planning Commission review the LOI and provide comment. Once the Planning Commission has provided comment, the City Council is ready to move forward with the signing of the LOI.

Proposed Planning Commission Action:

If the Planning Commission believes everything is in order, the Planning Commission should recommend that the City Council sign the agreement. Staff has prepared a resolution for the Planning Commission to vote on and submit to the City Council. Staff recommends that the Planning Commission approve the resolution stating approval of the Letter of Intent.

CC: Deb Boelter, City Administrator



## LETTER OF INTENT TO LEASE REAL ESTATE (LOI)

The purpose of this letter of intent (“**Letter of Intent**”) is to set forth the basic terms and conditions upon which City of Montrose (“**Lessor**”) and Renewable Properties, LLC (“**Lessee**”) have agreed to enter into an exclusive thirty (30) days negotiating period, for the preparation of a final lease agreement (the “**Lease**”) for the property described on Exhibit A hereto (the “**Property**”). Other than the provisions of Paragraphs 1 and 3, each of which are expressly intended by the parties hereto to be binding, this Letter of Intent is intended to be a non-binding agreement, and shall be superseded by execution and delivery of the Lease and Definitive Agreements (as defined below), unless earlier terminated.

1. **Good Faith Negotiation; Definitive Agreements.** Promptly after the full execution of this Letter of Intent, the parties hereto shall enter into a thirty (30) days exclusive negotiation period (“**Negotiation Period**”) with respect to (a) the preparation and execution of the Lease and, (b) any other document that may be appropriate or necessary in connection with execution and delivery of the Lease (together, the “**Definitive Agreements**”), and (c) a Due Diligence Investigation (defined below) by Lessee. The Lease and Definitive Agreements shall contain representations, warranties, indemnities and covenants that are customary for transactions of this kind. The parties hereto agree to cooperate fully with each other and use commercially reasonable and good faith efforts to negotiate, execute and deliver the Lease and the Definitive Agreements within thirty (30) days after the full execution of this Letter of Intent. The Lease and Definitive Agreements shall be drafted by counsel to Lessee subject to review and modification by the Lessor.

2. **Terms of Lease.** The Lease will include the following terms and conditions:

(a) **Lease.** Lessor will lease the Property to Lessee or its assignee for the purposes of constructing, operating, repairing, replacing, accessing, and maintaining solar facilities, energy storage equipment, transmission lines and all related appurtenances (the “**Project**”).

(b) **Rent.** Upon execution of the Definitive Agreements (the “**Effective Date**”), during the Development Period (as hereinafter defined), Lessee will make a rent payment of One Thousand Dollars (\$1,000.00) per year, payable yearly in advance. During the Extended Term (defined below), Lessee will make a rent payment of One Thousand Dollars (\$1,000.00) per acre per year, payable quarterly in advance. During the Extended Term of the Lease, the rent amount shall escalate annually by 1.5%.

(c) **Lease Period.** The Lease will have an initial “**Development Period**” commencing on the Effective Date and expiring on the twelve (12) months thereafter, as such period may be extended by Lessee for an additional twelve (12) months upon written extension notice by Lessee to Lessor given within the Development Period. Lessee will have the option to terminate the Lease at any time during the Development Period with thirty (30) days written notice to Lessor. The Lease will have a twenty (20) year extended term (the “**Extended Term**”) commencing upon the earlier of (i) the date the Project begins commercial operation or (ii) the expiration of the Development Period. The Lessee will have the right to three (3) extension options, each for a period of five (5) years (each a “**Renewal Term**”), which it may exercise in its sole discretion.



(d) Due Diligence Investigation. During the Negotiation Period and the Development Period, Lessor shall provide Lessee and its employees, agents, representatives and contractors full and complete access to the Property, and all records, surveys, reports, documents and information pertaining to the Property that is in the possession or control of Lessor (collectively, “**Property Information**”) so that Lessee may conduct a due diligence investigation of the Property (“**Due Diligence Investigation**”). During the Negotiation Period and the Development Period, Lessee shall identify all acreage to be leased during the Extended Term. Only acreage identified as solar viable and elected by the Lessee to be leased shall be covered under the Extended Term.

(e) Condition of Title. Lessee will obtain, at its own expense, a preliminary report of the condition of title to the Property (the “**Title Report**”), as well as copies of each document underlying any exceptions set forth in said report (each exception, an “**Encumbrance**”), from a title company of Lessee’s choosing. If Lessee determines that the existence, use, operation, implementation or exercise of any Encumbrance could delay, interfere with, impair or prevent Lessee’s development, operation or financing of the Project, Lessee will notify Lessor of such issue and Lessor shall seek to obtain a release, subordination, non-disturbance agreement, consent or other agreement (in a form and containing provisions reasonably acceptable to Lessee) (together the “**Cure Document**”) from the holder of such Encumbrance that will eliminate such issue for the benefit of Lessee. If Lessor is unable to deliver the Cure Document on or before the expiration of the Development Period, at Lessee’s option and upon written notice to Lessor on or before the expiration of the Development Period, the Development Period will be extended thirty (30) days for the purpose of Lessor obtaining a Cure Document and delivering the Cure Document to Lessee.

(f) Cooperation. During the Negotiation Period and Development Period and thereafter, Lessor will cooperate in good faith with Lessee, and otherwise provide reasonable assistance, in obtaining all governmental approvals necessary or desirable for development of the Project. In connection with the foregoing, Lessee shall reimburse Lessor for all governmental fees and expenses for permits and licenses incurred by Lessor within thirty (30) days after written demand therefor.

(g) Right to Lease. Lessor represents and warrants to Lessee that it has the legal authority and power to enter into this Letter of Intent and the contemplated Lease and Definitive Agreements and that such actions have been duly authorized by all action necessary on the part of Lessor. The Lease and Definitive Agreements shall contain similar representations and warranties.

(h) Assignment. Lessee will not have the right to assign any of its rights, duties or obligations under the Lease without the prior consent of Lessor, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Lessee will have the right, without consent from Lessor, to assign any of its rights, duties or obligations under the Lease: (i) to a financing party, (ii) to one or more of its affiliates of equal or greater creditworthiness as Lessee, (iii) to one or more third parties in connection with a collateral assignment of rights, mortgage, pledge or otherwise, (iv) to any person or entity succeeding to all or substantially all of the stock or assets of Lessee, or (v) to a successor entity in a merger or



acquisition transaction.

(i) Memorandum of Lease. Upon execution of the Lease, the parties will execute, acknowledge, deliver and record a Memorandum of Lease with respect to the Lease, upon execution of the Lease.

(j) Grant of Security Interest. Lessee will be permitted to grant one or more security interests in the Lease and the improvements and equipment thereon to financing parties and others for purposes of obtaining financing, and the Lease shall contain such provisions protecting the financing parties as are customarily required by lenders providing financing secured by such types of assets.

(k) Taxes. Lessee will be responsible for personal property taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the Project. Lessor shall be responsible for real property taxes and any taxes payable by or assessed against Lessor based on or related to Lessor's overall income or revenues.

3. Data Practices. This Letter of Intent, the Lease and the Project is subject to the Minnesota Government Data Practices Act, Minnesota Statutes Ch. 13 (Data Practices Act). Access to all government data created, collected, received, stored, maintained, or disseminated by the Lessor pursuant to this Letter of Intent, the Lease, or the Project is governed by the Data Practices Act.

4. Legal Counsel and Financial Advice. Prior to fully executing and delivering this Letter of Intent, each party has had the opportunity to consult with its legal counsel and financial advisors in connection with this Letter of Intent. All parties shall be responsible for their own costs and expenses, including costs of legal counsel, in connection with this Letter of Intent.

5. Termination. Except as otherwise agreed to in writing by the parties, if a Lease is not entered into between the parties on or before the expiration of the Negotiation Period, this Letter of Intent will have no further force and effect, except for Paragraphs 3 and 6 which will survive any expiration or termination, and neither party will have any further obligations hereunder other than liability for a breach of the binding provisions noted above.

6. Miscellaneous. If any legal action or other proceeding is commenced to enforce or interpret any provision of this Letter of Intent, the prevailing party shall be entitled to an award of its actual expenses, including (without limitation) reasonable attorney's fees and disbursements. The phrase "prevailing party" shall include a party who receives substantially the relief desired, whether by settlement, dismissal, summary judgment, judgment or otherwise.

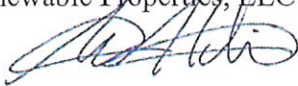
This Letter of Intent dated September 23, 2019 contains the entire agreement between the parties in connection with the subject matter hereof as of the date of this Letter of Intent and supersedes all prior agreements, whether written or oral, between the parties hereto regarding the same subject. This Letter of Intent may only be modified by subsequent written agreement signed by both parties.

Letter of Intent  
September 23, 2019  
Page 4 of 5

This Letter of Intent shall be governed by and construed in accordance with the laws of the State of Minnesota. All proceedings related to this Letter of Intent shall be venued in Wright County, Minnesota. This Letter of Intent may be executed in any number of counterparts, all of which together shall constitute one agreement.

The parties hereby agree to the forgoing terms and conditions of this Letter of Intent.

Renewable Properties, LLC



By: \_\_\_\_\_ Date: 10/23/19

Name: Aaron Halimi

Its: President

City of Montrose

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

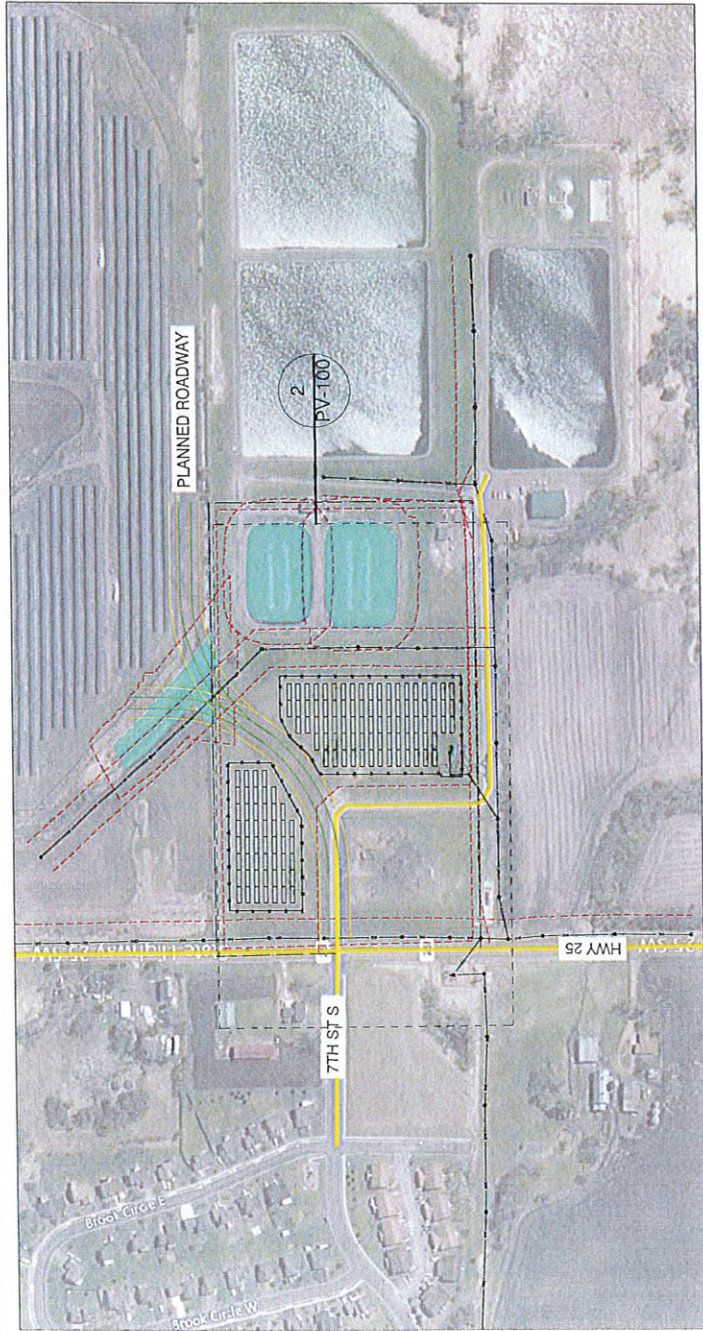


Exhibit A

Property Description: Land in Section 1, Township 118N, Range 26W, County of Wright and State of Minnesota described as SECT-01 TWP-118 RANGE-026 UNPLATTED LAND MONTROSE 19.13 AC TH PRT OF SW1/4 OF NW1/4 DES BEG SW COR TH N89D41'0"E ALG S LN 1176.05FT TH N0D19'0"W 708.50FT TH S89D41'0"W 1189.19 FT TO W LN TH S01D22'47"E 708.62FT TO POB commonly known as 311 BUFFALO AVE S, MONTROSE MN 55363 containing 19.13 acres more or less Parcel ID: 112500012302





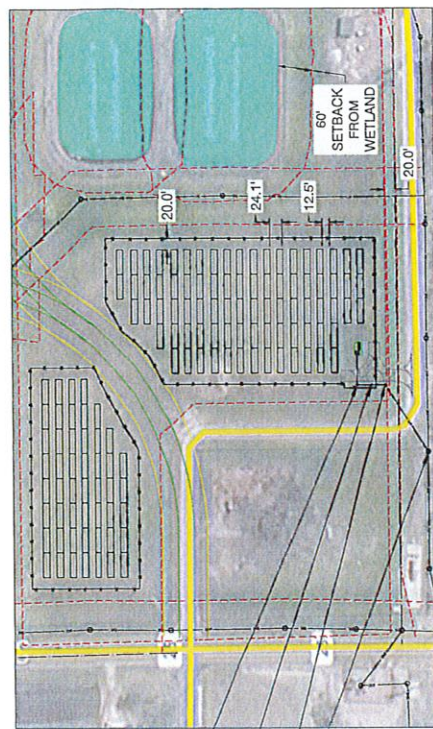


SYSTEM SPECIFICATIONS	
SYSTEM SIZE DC	1,400.49 kW
SYSTEM SIZE AC	1,000.00 kW
DC/AC RATIO	1.40
INVERTER TYPE	ANADIM 271-SDWP
MODULE MAKE	465 W
MODULE RATIO	3.68
TOTAL MODULE QTY	28
TOTAL NO. OF STRINGS	135 W
TOTAL NO. OF STRINGS	135 W
INVERTER RATIO	8
INVERTER QTY	(1) 12.4kW/600V, 1000VA
PACKAGING	GROUND MOUNT FIXED TILT
TILT ANGLE	30°
TILT ANGLE	30°
INTER-ROW SPACING	12.5'
PITCH	24.1°
UGR	4.8%
SITE AREA ASIDE FENCE	4.22 AC

LEGEND	
	30° FIXED TILT
	POWER STATION (1) 12.4kW/600V, 1000VA
	WEATHER STATION (TYP. OF 1)
	SUNSHOWER 150W STRING INVERTER (TYP. OF 8)
	20' WIDE SITE ACCESS GRAVEL ROAD
	WETLAND
	PUBLIC ROAD
	PROPERTY LINE
	PROJECT SITE SECURITY FENCE
	SETBACK
	80' OH LINES
	10' CABLE

- GENERAL NOTES**
1. REFER TO SINGLE LINE DIAGRAM FOR DETAILS.
  2. INSTALLATION TO COMPLY WITH ALL APPLICABLE 609 AND ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
  3. EQUIPMENT SHALL BE LABELED PER NEC 609 AND UTILITY REGULATIONS.
  4. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, APPROVALS, AND UTILITY TRAFFIC THROUGHOUT THE SITE.
  5. DIMENSIONS TO PROPERTY LINES AND DISTINGUISHING FEATURES ARE APPROXIMATE.
  6. PENDING SURVEY.

1 ARRAY LOCATION  
SCALE: 1" = 150'



- (N) PROJECT RISER POLE (PROJECT GOAB & FUSED CUTOUPS)
- (N) UTILITY POLE (UTILITY MAIN SERVICE METER)
- (N) UTILITY POLE (UTILITY GOAB - TBD)
- (E) UTILITY POLE (PO)

2 ARRAY PLAN  
SCALE: 1" = 100'



I HEREBY CERTIFY THE PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
ROBERT C. HOBBS  
DATE: 12/24/15

BUFFALO AVENUE SOLAR

MN 25,  
MONTROSE, MN 55363, USA  
LAT: 45.057786°  
LON: -93.908321°

NO.	DESCRIPTION	DATE
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

SHEET TITLE:

SITE PLAN

DRAWING NO.:  
**PV-100**

DRAWN BY:	LN
REVIEWED BY:	
DATE:	06/02/20
SCALE:	AS SHOWN
PROJECT NO.:	



I HEREBY CERTIFY THIS PLAN SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
 JENNIFER S. HEDRUP  
 DATE: 12/24/19

**BUFFALO AVENUE SOLAR**

MINN.  
 MONROSE, MN 55363, USA  
 LAT: 45.057786°  
 LON: -93.908321°

NO.	DESCRIPTION	DATE
1	FOR UTILITY APPLICATION	12/24/19

SHEET TITLE

**ONE LINE DIAGRAM**

DRAWING NO.:

**E-101**

DRAWN BY:

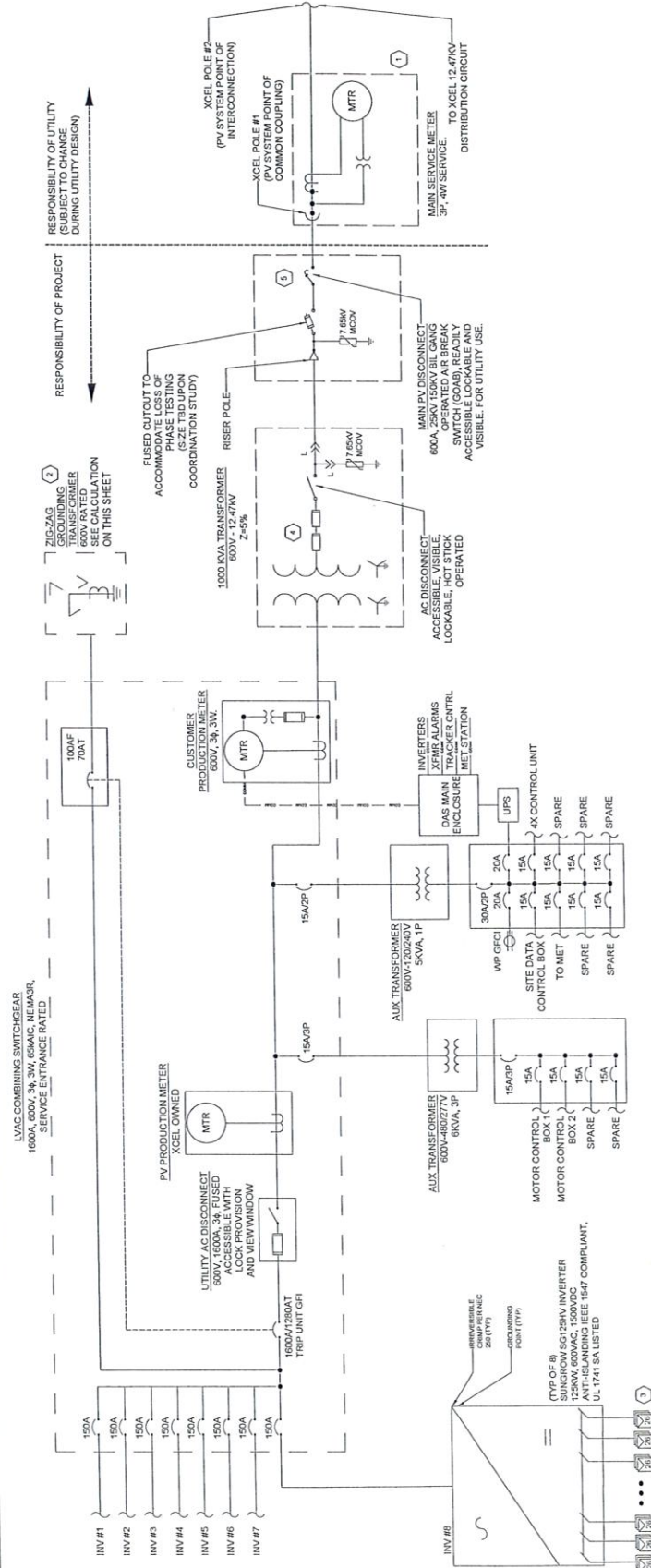
LN

REVIEWED BY:

DATE:

SCALE:

PROJECT NO.:



**ONE LINE DIAGRAM**  
 SCALE: NTS

**GENERAL NOTES**

- EQUIPMENT USED SHALL BE LISTED AS PER STANDARDS LISTED BELOW
  1. EQUIPMENT USED SHALL BE LISTED AS PER STANDARDS LISTED BELOW
  2. EQUIPMENT USED SHALL BE LISTED AS PER STANDARDS LISTED BELOW
  3. EQUIPMENT USED SHALL BE LISTED AS PER STANDARDS LISTED BELOW
- EQUIPMENT SELECTION, PV SYSTEM DESIGN AND INSTALLATION SHALL BE AS PER NEC 2017 AND ALL EQUIPMENT SHALL BE DESIGNED, MANUFACTURED, TESTED, AND OPERATED IN COMPLIANCE WITH APPROPRIATE STANDARDS SUCH AS: IEEE, UL, IEC, AND IEEE.
- THE LOW VOLTAGE SWITCHGEAR BREAKER SHALL OPEN BY TRIP COIL WHICH IS ENERGIZED WHEN THE CURRENT FLOWS THROUGH THE 250 ZIG ZAG TRANSFORMER.
- SOLAR PV SYSTEM RATED AT 1000KW AT UNITY POWER FACTOR.
- SEE SHEET E-102 FOR LABEL REQUIREMENTS.

**KEY NOTES**

- MAIN SERVICE METER, 3P, 4W SERVICE, PROVIDE PLACARD: "GENERATION SYSTEM CONNECTED" FINAL SPECIFICATIONS BY UTILITY, CUSTOMER TO PROVIDE AND INSTALL PER UTILITY STANDARDS.
- MINIMUM GROUNDING TRANSFORMER SIZE CALCULATIONS SHOWN.
- 25 MODULES PER STRING, JPMO SOLAR JPMO 250V, 40W MODULES.
- EXPLOSION FUSE (TBD), CURRENT LIMITING FUSE (TBD), AND LOAD BREAK DISCONNECT.
- UTILITY AS DISCONNECT.

**XCEL ENERGY GROUNDING TRANSFORMER SIZING CALCULATION**

- ZERO SEQUENCE REACTANCE
  - $X_{0eq} = 0.8 \times \mu \times 10^6 = 0.8 \times 0.2160 = 0.1728 \Omega$
  - BASE IMPEDANCE  $Z_{base} = \frac{V^2}{MVA_{base}} = \frac{(0.61 kV)^2}{1 MVA} = 0.36 \Omega$
  - $X_{0eq} / Z_{base} \geq 4$ ,  $R_{0eq} = X_{0eq} / 4 = 0.0432 \Omega$
- GROUND REFERENCING EQUIPMENT TO WITHSTAND A MINIMUM OF  $V_0 = 45$  AND  $V_L = 120$  (NOTE: APPROXIMATED AS  $V_0 = V_L / 2$ )
  - $X_{0eq} = 0.216 \Omega$ ,  $V_0 = 45$
  - BASE CURRENT  $I_{base} = \frac{MVA_{base}}{\sqrt{3} \times V_L} = \frac{1000}{\sqrt{3} \times 120} = 4802.25 A$
  - PERCENT ZERO SEQUENCE CURRENT  $I_{0max} = I_{base} \times \sqrt{3} \times 100 = 8301.25 A$
  - PERCENT ZERO SEQUENCE CURRENT IN AIRBIL  $I_{0max} = I_{base} \times \sqrt{3} \times 100 = 8301.25 A$
  - NEUTRAL CURRENT  $I_n = 3 \times I_{0max} = 24903.75 A$
  - $I_n = 3 \times I_{0max} = 24903.75 A$
- SECOND WITHSTAND FAULT CURRENT RATING = 2500 A

**SYSTEM SPECIFICATIONS**

SYSTEM SIZE DC	1,400.00 kW
SYSTEM SIZE AC	1,000.00 kW
DC/AC RATIO	1.40
INVERTER MANUFACTURER	SUNGROW
INVERTER MODEL	SG120H
MODULE MANUFACTURER	JANESON 72H-100W
MODULE RATING	400 W
TOTAL MODULE QTY	3,458
MODULES PER STRING	25
NUMBER OF STRINGS	138
INVERTER MODEL	SUNGROW SG120H
INVERTER RATING	120 kW
INVERTER QTY	6
STEP-UP TRANSFORMER	11/12 TRANSFORMER 1000KVA

**CITY OF MONTROSE  
COUNTY OF WRIGHT  
STATE OF MINNESOTA**

**PLANNING AND ZONING COMMISSION RESOLUTION NO. 2020-01**

**RESOLUTION APPROVING A LETTER OF INTENT FOR A SOLAR FARM  
LOCATED AT PID 112-500-012302  
WITHIN THE CITY OF MONTROSE**

WHEREAS, Renewable Properties, LLC has submitted a Letter of Intent (LOI) to lease property at PID 112-500-012302 to operate a solar farm legally described as:

Sect-01 Twp-118 Range-026 UNPLATTED LAND MONTROSE 19.13 AC TH  
PRT OF SW1/4 OF NW1/4 DES BEG SW COR TH N89D41'0"E ALG S LN  
1176.05FT TH N0D19'0"W 708.50FT TH S89D41'0"W 1189.19 FT TO W LN TH  
S01D22'47"E 708.62FT TO POB

WHEREAS, City Staff has reviewed the Letter of Intent dated September 23, 2019 and the submitted site plan dated June 2, 2020; and

WHEREAS, the Montrose Planning and Zoning Commission met and held a meeting on June 10, 2020, to consider the Letter of Intent; and

WHEREAS, upon considering the Letter of Intent dated September 23, 2019; the June 2, 2020 Site Plan; and listening to public testimony; the Planning and Zoning Commission recommended that the City Council approve the Letter of Intent on a vote of \_\_\_\_\_ to \_\_\_\_\_ .

NOW, THEREFORE BE IT RESOLVED, that the Planning and Zoning Commission of the City of Montrose, Minnesota hereby recommends approval of the Letter of Intent for Renewable Properties, LLC to lease City property at 112-500-012302 to operate a solar farm.



Adopted by the Montrose Planning and Zoning Commission this 10<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
Tracy Gurneau  
Planning and Zoning Commission Chair

Attest:

\_\_\_\_\_  
Deborah R. Boelter  
City Clerk-Treasurer

DRAFT

**NORTHWEST ASSOCIATED CONSULTANTS, INC.**

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422  
Telephone: 763.957.1100 Website: [www.nacplanning.com](http://www.nacplanning.com)

**MEMORANDUM**

TO: Montrose Planning Commission  
FROM: Ryan Grittman – City Planner  
DATE: June 4, 2020  
RE: Food Truck Regulations and Ordinance  
FILE NO: 273.02

**BACKGROUND**

The City of Montrose has expressed an interest in pursuing regulations to permit the operation of food truck vendors in the community, a use which is not currently addressed in the City Ordinance. Food trucks are a transient business that may operate in a variety of zoning districts and at different times of the year. In other communities, food trucks have served food in commercial areas where there is a demand for additional food options. Food trucks may also serve public and semi-public events, such as farmers markets or City festivals, or may be connected with an established restaurant business.

The operation of food trucks in the community raises some questions. The transient nature of food trucks poses concerns with regards to potential impacts on other local food related businesses. Food trucks are not required to rent or purchase property to conduct their sales but will compete against established taxpaying restaurants that have invested in real estate. Should the City deem this kind of competition appropriate, they will need to establish regulations for the unique style of operation associated with mobile food vendors.

The following memorandum further defines food trucks; details applicable state and regional regulation of food trucks; reviews topics or concerns to be addressed with food truck licensure and regulation; and identifies how to integrate food truck licensure and regulation in the Montrose Ordinance. A draft ordinance amendment establishing food truck regulations is provided with the report for consideration by the Planning Commission. It should be noted that the City has not yet called for a public hearing on



this ordinance amendment, this draft ordinance is presented for preliminary comment and review at this time.

## ISSUES AND ANALYSIS

### **State Regulation of Mobile Food Trucks.**

#### *Minnesota Statutes Chapter 157 Food, Beverage, and Lodging Establishments*

According to Minnesota Statutes *Chapter 157 Food, Beverage, and Lodging Establishments*, a license is required annually for anyone engaged in the business of conducting a food and beverage service establishment. To acquire a license, applicants must make application, pay the required licensure fee, and receive approval for their operation, including plan review approval. Food truck licensure in Wright County is provided by the Minnesota Department of Health.

State Statutes directly address regulation of mobile food trucks, which the State refers to as “mobile food units,” or MFUs. MN Statutes Chapter 157 provides the following definition for food establishments of a temporary or mobile nature, from *Section 157.15 Definitions*:

*Food cart.* A food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

*Mobile food unit.* A food and beverage service establishment that is a vehicle mounted unit, either:

- (1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or
- (2) Operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

*Seasonal permanent food stand.* A food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

*Seasonal temporary food stand.* A food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location.

*Minnesota Food Code, from Minnesota Rules Chapter 4626*

The Minnesota Food Code contains the minimum design, installation, construction, operation and maintenance requirements for all food establishments in Minnesota. These rules are the standards with which food establishments must comply in the handling, storing, preparation, and service of food to the retail food consumer. Chapter 4626 defines a “food establishment” as including an operation that is conducted in a “mobile, stationary, temporary, or permanent facility, location, or cart, regardless of whether consumption is on or off the premises.”

MN Food Code Chapter 4626 provides very specific regulation of mobile food establishments, as described in *Section 4626.1860 Mobile Food Establishments; Seasonal Temporary Food Stands; and Seasonal Permanent Food Stands*. This section of State code regulates different aspects of food truck operation, including mechanical systems, water supply and disposal, washing and sanitation facilities, waste disposal, food preparation and cooking areas, and food preservation/refrigeration. A complete list of state standards can be found in Section 4626.1860.

### *Minnesota Department of Health*

As indicated earlier, the Minnesota Department of Health (MDH) is the agency responsible for plan review and licensing for mobile food units in Wright County. The MDH enforces regulations provided for Mobile Food Units (MFUs) in MN Statutes Chapter 157 and MN Food Code Chapter 4626. The MDH requires individuals or groups interested in operating an MFU to submit a “Temporary/Seasonal Plan Review Application” and required fees at least 30 days prior to beginning new construction or remodeling of an MFU.

A plan review submission must include the following:

- A completed plan review application with the required fees.
- Intended menu.
- Description of how food will be prepared.
- Easily readable floor plan layout indicating the location of all equipment (e.g., cooking equipment, hood, refrigerators, food prep counters, hand washing sink(s), three-compartment sink, and food prep sink).
- Finish schedule for floors, walls and ceilings.
- Manufacturer’s equipment specifications sheets for all equipment, including sinks.
- Size of water heater, and fresh water and wastewater holding tanks.
- Finishes for counters and cabinetry.
- Commissary agreement, if required.
- List of intended, scheduled events or areas of operation if known.

Once plans are approved by the Minnesota Department of Health (MDH) and construction or renovation of the mobile food unit is completed, applicants need to follow additional steps to get licensed, including submitting a license application; having the mobile food unit inspected; and posting the permit during operations. The MDH license is valid for one calendar year (January 1 through December 31), and must be renewed annually.



The MHD publication “Mobile Food Unit and Seasonal Temporary Food Stand Construction Guide” provides specific information on equipment and operations regulations for MFUs, which are in line with requirements as provided in MN Food Code Chapter 4626, described earlier in the report.

**Local Regulation of Mobile Food Units.** The City of Montrose does not currently define food trucks or provide licensing and regulation of the use. However, City Code Chapter 70 “Peddlers and Solicitors,” provides a definition for transient merchants as follows:

“A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.”

Mobile food unit vendors engage in temporary and transient selling of goods and hence fall within the purview of this transient merchant definition. Section 70.03 requires transient merchants to attain a license for operating in the City. General requirements for this license require the applicants to furnish background information and details pertaining to the proposed sales activity (including proposed time or duration of sales).

The existing Ordinance addresses the transient or temporary nature of operations in a general way. The State regulates mobile food units in a specific way, with special attention to managing the health and sanitation aspects of the use in line with how a restaurant would be regulated. It would be difficult for Montrose to incorporate detailed food regulations in the licensure for transient merchants because not all transient merchants have food operations. However, the City Ordinance can be updated to define and identify mobile food units as a separate transient use requiring licensure from the City. The City may wish to group other food related transient uses (e.g. food carts, ice cream trucks) in with the mobile food unit transient use license as well. This will allow the City to provide additional regulations specific to these uses in the Ordinance. In addition, once mobile food units have been clearly defined as a transient use in the Ordinance, the requirement for State licensure and regulation can be directly referenced in the City’s licensure requirements.

**Mobile Food Unit Land Use Considerations.** Several land use concerns should be addressed in considering an amendment to Chapter 70 of City Code for mobile food unit (MFU) licensure. They include:

*License Limitations.* A mobile food unit (MFU) ordinance should require that applicants verify MFU licensure through the MN Health Department. As described, the State license requires a detailed plan review process to verify that food sanitation and safety conditions have been met.

The State permits licensed mobile food units (MFUs) to operate up to 21 days at any one place but doesn’t otherwise limit the extent of MFU operations over the course of the

annual permit. The City may consider further limiting MFU operations by identifying the number of locations at which an MFU may operate over the course of an annual license and the number of MFUs that a private property may host over the course of an annual license. Appropriate limitations are open for discussion, but the attached draft ordinance provides the following potential limitations:

- 1) An annual city granted MFU license will allow vendors to operate at four locations during the course of an annual permit, and no more than 21 days at a time.
- 2) A private property may host no more than four MFUs over the course of the year, non-consecutively and for no more than 21 days at a time.

These additional limitations are intended to manage land use impacts from MFUs, and decrease potential impacts to established food businesses within the City at any one location.

*Competition with Established Restaurants.* Montrose has several existing independent restaurant and coffee shop establishments that have the potential to be impacted by mobile food unit (MFU) competition. These establishments are limited to one location and have financial obligations for their business location, such as paying property taxes or rent. Mobile food units, which require an initial vehicle and equipment investment but have no ongoing local tax responsibilities, have a financial advantage over established restaurant and coffee shop businesses. For this reason, the City should consider the following:

- Whether it is appropriate to permit MFUs given this concern
- If the City decides to permit MFUs, where to allow them

Planning staff recommends implementing a setback requirement from existing restaurants and coffee shops. A minimum distance of 200 feet may reduce proximity competition between MFUs and other establishments, which will result in a more level playing field for the two business types despite the tax disparity described.

*Location in Community.* As with other restaurants, mobile food units (MFUs) should be limited to commercial or industrial zoning districts. An exception may be made for MFUs serving festivals or events at parks (a land use which can be found in residential districts). If the City decides on implementing a mobile food unit (MFU), ordinance zoning districts within which MFUs may operate should be identified in Chapter 70.07 Licensing Restrictions for MFUs. Ice cream trucks, which are considered an MFU, serve pre-packaged food products as opposed to prepared food, and are typically drawn to residential neighborhoods to sell their products to families with children. Therefore, the City may consider an exception to allow ice cream trucks within residential zoning districts, subject to certain additional conditions meant to mitigate issues specific to ice cream truck operations. For example, because ice cream trucks serve children, a background check for truck operators may be useful.



The actual location of mobile food units (MFUs) within commercial and industrial zoning districts should be limited to private properties, so as not to create obstacles within public areas or right of ways. Further, on private properties MFUs should be required to stay clear of pedestrian ways; should maintain traffic circulation; and may not reduce required parking. Permission from private property owners must be required for approval of an MFU license. However, ice cream trucks operating in residential districts will need to be permitted to temporarily rest in public right of ways in order to operate, but are not expected to linger at any one location for extended periods of time.

*Hours of Operation.* The existing ordinance prohibits operation between 9:00 pm and 7:00 am. The City may consider specifying specific hours of operations for mobile food units (MFUs), which should be flexible enough to permit the sale of food around meal hours but restrictive enough to prevent mobile vendors from operating too early in the morning or too late into the evening. Exceptions could be considered for MFUs serving special events or festivals operating during atypical business hours. The draft ordinance prohibits mobile food unit operations between the hours of 10:00 pm and 8:00 am.

*Setup and Maintenance of Mobile Food Unit Sites.* The City should consider establishing guidelines for appropriate setup and maintenance of mobile food unit (MFU) sites. In the attached draft Ordinance several items address this issue, including:

- Requiring that trash and recycling collection and clean-up be provided to prevent food trash from littering surrounding property.
- Requiring that MFUs provide an independent power supply, screened from view, to avoid burdening private property owners with energy needs. Generators should be permitted in this regard.
- Noise and visual interference associated with MFUs should be managed to avoid impacts to surrounding businesses. Mobile food units should not maintain or use outside sound amplifying equipment; televisions or other similar visual entertainment devices; or noisemakers such as bells, horns, or whistles. However, ice cream trucks traveling through residential districts may have outdoor music or noise making devices to announce their presence.
- Mobile food units (MFUs) should be required to be located on paved hard surfaced areas to provide for easier clean-up and maintenance of the MFU site.
- Mobile food units (MFUs) must close down during adverse weather conditions, unless additional shelter has been provided for patrons.

## RECOMMENDATION

Planning staff is not making a specific recommendation on the question of whether to permit mobile food units (MFUs) in the community or not. Other communities have permitted MFUs, but have required them to attain a license and have limited their location and operations according to additional MFU regulations. It is recommended that the City

of Montrose require the same steps if it is determined that MFUs should be permitted in the City. The potential competition of MFUs with established, tax paying restaurant and coffee shop businesses is a significant area of concern in deciding whether to permit MFUs in the community. If the City determines that MFUs and established food service businesses can co-exist in the community, additional regulations should be required of MFUs as pertains to their location relative to established businesses.

An ordinance amendment to permit mobile food units to operate in the community needs to include an amendment to Montrose City Code Chapter 70 "Peddlers and Solicitors" to provide a definition for mobile food units (under 70.01 Definitions), and to establish specific regulations for mobile food units applying for a transient merchant license (under 70.07 Restrictions). Mobile food units should also adhere to all general transient merchant regulations provided in Chapter 70. A draft ordinance amendment is attached to this report for consideration by the Planning Commission.

CC: Deb Boelter



CITY OF MONTROSE  
COUNTY OF WRIGHT  
STATE OF MINNESOTA

ORDINANCE NO. 2020-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 70: PEDDLERS AND SOLICITORS TO  
ESTABLISH ADDITIONAL STANDARDS FOR MOBILE FOOD UNITS WITHIN THE  
CITY.

THE CITY COUNCIL OF THE CITY OF MONTROSE ORDAINS:

**Section 1.** Chapter 70 of the City of Montrose City Code is hereby amended to read as follows:

CHAPTER 70: PEDDLERS, TRANSIENT MERCHANTS, MOBILE FOOD UNITS, AND SOLICITORS

70.01. DEFINITIONS.

A) Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1) "Mobile Food Unit" means a food and beverage service establishment that is a vehicle mounted unit, such as:

a) Motorized or trailered, operating no more than twenty-one (21) days annually at any one place, or operating more than twenty-one (21) days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.

b) Operated in conjunction with a permanent business licensed under Chapter 157 or Chapter 128A of the Minnesota State Statutes at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.

c) Food Cart: A food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

- d) Ice Cream Truck: A motor vehicle utilized as the point of retail sales of pre -wrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water or similar frozen dessert products.

4) 2) PEDDLER.

- a) A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personnel property that the person is carrying or otherwise transporting.
- b) The term PEDDLER shall mean the same as the term HAWKER.

2) 3) PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

3) 4) REGULAR BUSINESS DAY.

- a) Any day during which the City Hall is normally open for the purpose of conducting public business.
- b) Holidays, defined by state law, shall not be counted as REGULAR BUSINESS DAYS.

4) 5) SOLICITOR.

- a) A person who goes from house-to-house, door-to-door, business-to-business, street-to-street or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time.
- b) The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term CANVASSER.

5) 6) TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter or empty store front for the purpose of exposing or displaying for sale, selling or attempting to



sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

#### 70.02. EXCEPTIONS TO DEFINITIONS.

- A) For the purpose of the requirements of this chapter, the terms PEDDLER, SOLICITOR and TRANSIENT MERCHANT shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
- B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of PEDDLERS, SOLICITORS and TRANSIENT MERCHANTS, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

#### 70.03. LICENSING; EXEMPTIONS.

- A) County license authorized. No person shall conduct business as a peddler, solicitor or transient merchant within the City limits without first having obtained the appropriate license from the county, if the county licenses peddlers, solicitors or transient merchants, as authorized by M.S. Ch. 329 as it may be amended from time to time.
- B) City license required. Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City. Solicitors need not be licensed, but are still required to register pursuant to this Chapter.
- C) Application. Application for a City license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Administrator/Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information.

- 1) Applicant's full legal name;
- 2) All other names under which the applicant conducts business or to which applicant officially answers;
- 3) A physical description of the applicant, such as hair color, eye color, height, weight, distinguishing marks and features and the like;
- 4) Full address of applicant's permanent residence;
- 5) Telephone number of applicant's permanent residence;
- 6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;
- 7) Full address of applicant's regular place of business, if any;
- 8) Any and all business related telephone numbers of the applicant;
- 9) The type of business for which the applicant is applying for a license;
- 10) Whether the applicant is applying for an annual or daily license;
- 11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City, maximum 14 consecutive days;
- 12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business;
- 13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- 14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
- 15) Proof of any requested county license;
- 16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- 17) A general description of the items to be sold or services to be provided;



- 18) All additional information deemed necessary by the City Council;
  - 19) The applicant's driver's license number or other acceptable form of identification; and
  - 20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
- D) Fee. All applications for a license under this chapter shall be accompanied by the fee established by the Council.
- E) Procedure.
- 1) Upon receipt of the completed application and payment of the license fee, the City Administrator/Clerk-Treasurer, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided.
  - 2) If the City Administrator/Clerk-Treasurer determines that the application is incomplete, the City Administrator/Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Administrator/Clerk-Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application.
  - 3) Within ten regular business days of receiving a complete application, the City Administrator/Clerk-Treasurer must issue the license unless there exist grounds for denying the license under this Chapter, in which case the Administrator/ Clerk-Treasurer must deny the license. If the City Administrator/Clerk-Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council.
  - 4) The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the State Court of Appeals for a writ of certiorari.
- F) Duration.
- 1) An annual license granted under this chapter shall be valid for one calendar year from the date of issue.
  - 2) All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

G) License exemptions.

- 1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated or raised on any farm.
- 2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
- 3) Professional fund-raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

70.04. LICENSE INELIGIBILITY.

A) The following shall be grounds for denying a license under this chapter.

- 1) The failure of the applicant to obtain and show proof of having obtained any required county license;
- 2) The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;
- 3) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner; (Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices and any form of actual or threatened physical harm against another person.)
- 4) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; and/or 5) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.



#### 70.05. LICENSE TRANSFERABILITY.

- A) No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

#### 70.06. REGISTRATION.

- A) All solicitors, and any person exempt from the licensing requirements of this chapter, shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required.
- B) Immediately upon completion of the registration form, the City Administrator/Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

#### 70.07. PROHIBITED ACTIVITIES RESTRICTIONS.

- A) No peddler, solicitor or transient merchant shall conduct business in any of the following manners.
  - 1) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out or by any other noise, so as to be unreasonably audible within an enclosed structure;
  - 2) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way;
  - 3) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public;
  - 4) Conducting business before 7:00 a.m. or after 9:00 p.m.;
  - 5) Failing to provide proof of license or registration, and identification, when requested, or using the license or registration of another person;
  - 6) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement; and (No peddler, solicitor or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.)
  - 7) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

B) Mobile Food Units (MFUs). Mobile food units (MFUs) are required to meet the additional following standards:

1. MFU licenses issued are issued by the City Administrator or a designee under the City Administrator. Licenses are issued on an annual basis, and permit MFUs to operate at up to four locations in the community during the course of the year, not to exceed 21 days per location.
2. MFUs must be licensed by the Minnesota Health Department, and must adhere to State regulations for food trucks as provided in Food Code Chapter 4626.1860 Mobile Food Establishments; Seasonal Temporary Food Stands; Seasonal Permanent Food Stands. Evidence of the State license must be provided to the City as part of the local license application.
3. With the exception of MFUs serving special events for public or institutional uses in residential districts, MFUs operations are limited to the business and industrial districts. Ice cream truck vendors may operate in all zoning districts.
4. MFUs must be located on private property, and the applicant must provide written consent from the property owner. However, MFUs may be located in a public park with approval from the City, and ice cream trucks are allowed to operate within the public right-of-way in residential districts.
5. Private properties may host no more than four MFUs over the course of the year, non-consecutively, and for no more than 21 days at a time.
6. MFU sites shall be kept in a neat and orderly manner, and shall adhere to the following site and operational requirements:
  - a. Trash and/or recycling collection and cleanup must be provided.
  - b. MFUs must provide independent power supply which is screened from view. Generators are permitted.
  - c. MFUs may not maintain or use outside sound amplifying equipment, televisions or other similar visual entertainment devices, or noisemakers such as bells, horns or whistles. Ice cream trucks traveling through a residential district may have outdoor music or noise-making devices to announce their presence.
  - d. MFUs cannot obstruct the movement of pedestrians or vehicles or pose a hazard to public safety.
  - e. MFUs shall be located on an asphalt or concrete surface.



- f. MFUs may not be located within 200 feet of existing restaurants or coffee shops, as measured from the MFU to the food service building.
- g. MFUs must close during adverse weather conditions when shelter is not provided.
- h. MFUs are not permitted to operate between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M.
- 7. Ice cream truck vendors are required to undergo a criminal background check prior to operating in the community, at the cost of the applicant.
- 8. If MFU sites are found to be in non-compliance with any conditions as provided in Chapter 70 of this Ordinance, the City reserves the right to revoke the MFU transient merchant license.

#### 70.08. EXCLUSION BY PLACARD.

- A) No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

**Section 2.** This ordinance shall take effect and be in full force after its passage and publication.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by the City Council of the City of Montrose.

CITY OF MONTROSE

By: \_\_\_\_\_  
Michelle Otto, Mayor

ATTEST:

By: \_\_\_\_\_  
Deb Boelter, City Clerk

DRAFT