



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

**RESCHEDULED
Wednesday, May 24, 2023
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. April 12, 2023 Planning and Zoning Commission Meeting Minutes
6. Public Hearing
 - A. To Consider a Request for an Amendment to Multiple Sections of the Montrose City Zoning Code Relating to Storage of Mobile Food Units
7. Old Business
8. New Business
 - A. Updates
9. Next Meeting
 - A. Wednesday, June 14, 2023 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, April 12, 2023
 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, April 12, 2023 at 7:00pm.

Planning and Zoning Commission Chair, Mr. Charles Smallwood, called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Commissioner Charles Smallwood
 Commissioner Catherine Neiberger
 Commissioner Roger Fraumann
 Commissioner Shawn Cuff
 City Council Liaison Sam Solarz

Absent: Commissioner Sylvia Henry

Staff Present: Ms. Jessica Bonniwell, City Administrator
 Mr. Bob Kirmis, City Planner

3. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

Commissioner Fraumann motioned to approve the April 12, 2023 Planning and Zoning Meeting Agenda as presented. Commissioner Neiberger seconded the motion. Motion carried 4-0.

5. APPROVAL OF THE MINUTES

A. January 11, 2023 Planning and Zoning Commission Meeting Minutes

Commissioner Fraumann motioned to approve the January 11, 2023 Planning and Zoning Commission Meeting Minutes as presented. Commissioner Cuff seconded the motion. Motion carried 4-0.

6. PUBLIC HEARING

A. To Consider a Request for an Amendment to the City Code Related to an Allowance for Keeping Chickens on Certain Residential Property

Commissioner Smallwood motioned to close the Planning and Zoning meeting and open the Public

Hearing at 7:03 p.m. Commissioner Cuff seconded the motion. Motion carried 4-0.

Mr. Kirmis reviewed the memos that were prepared by the planning staff as follows:

The City is considering a discussion of the various aspects of permitting chickens on residential property. This issue has been raised in the past, although the City has declined to change the ordinances to accommodate those requests.

Prohibiting Chickens in Residential Areas:

The reasons for maintaining a prohibition depend largely on the community, but a sampling of those issues follows:

- Neighbor complaints. For many communities that allow chickens, there are a variety of impacts that have occurred. Cities have received complaints over: the visual aesthetic of the coops and enclosures; occasional odors that can be generated by the chickens and/or the facilities; noise generated by the chickens (even hens); and increases in predators (fox/coyotes/feral cats, etc.).
- Abandonment: Hens no longer lay eggs; chickens no longer wanted; and structures that remain after the chickens are gone.
- Management: Many cities have chosen not to permit chickens due to the size and/or expertise of staff in handling violations and complaints, settling neighbor disputes, reviewing and judging applications, etc. This aspect may be particularly relevant for Montrose, which maintains a small administrative staff.

Allowing Chickens in Residential Areas:

There is a broad range of methods that cities have used in regulating or permitting chickens, when the city chooses to do so. These range from simple site plan reviews by staff, to permit approvals by Planning Commission and/or City Council, adoption of simple or highly complex ordinances, and licensing, either one-time licenses or regular (usually annual) renewals. The complexity of the process bears directly on the staff time and expertise in operating the licensing program.

The City of Delano adopted a very complex ordinance, with many specific regulations and rules for both the application process, as well as the ongoing operational aspects. Monticello allows chickens and their experience has been mixed, with highly motivated and focused licensees typically raising few complaints, but with more issues related to those who initiate chicken-raising but lose interest or ability. The City of Buffalo does not currently permit chickens.

It should be noted that some cities have followed the City of Minneapolis model of allowing chicken licenses following notification of, and approval by, adjoining neighbors. This approach is technically only permitted in the largest cities in Minnesota, which have different zoning authority than cities under 100,000 in population allowing them to rely on neighborhood review of zoning decisions.

At the August 2021 Planning Commission meeting, the Commission called for a public hearing to discuss the potential for amending the City's ordinance to accommodate chickens on residential property. The staff summary for that discussion is attached to this memorandum. The purpose of this supplemental report is to help frame the public discussion at the public hearing.

As noted previously, the current zoning ordinance includes poultry in the list of farm animals, which are not allowed in residential districts. To accommodate requests for chickens, the City would have to amend the zoning ordinance to exempt chickens from that prohibition, and create an ordinance structure for permitting chickens in those cases.

In most cities where chickens are allowed (many cities use the same approach Montrose currently uses, prohibiting them), the following categories of issues are addressed in some fashion:

- 1) No roosters, hens only.
- 2) Number of chickens – the lower threshold ordinances will allow four, with some cities allowing more, and sometimes, variably increasing numbers according to lot size.
- 3) Properties excluded from the allowance – lot size, single family use or otherwise, adjacency to certain other sensitive land uses.
- 4) Limitations on the coop and enclosure.
 - i. Minimum and maximum sizes.
 - ii. Containment and protection from wild animals.
 - iii. Materials (e.g., materials and/or colors similar to those on principal structure)
 - iv. Whether the coop is included in the accessory building requirements.
 - v. Coop location – rear yard; setbacks; screening from neighboring properties; etc.
- 5) Cleanliness and site conditions.
- 6) Feed storage.
- 7) Administrative requirements:
 - i. Permit from the City required?
 - ii. Permit application information?
 - iii. Annual, Permanent, or renewable permitting?
 - iv. Permit fees?
- 8) Enforcement:
 - i. Capacity of staff.
 - ii. Enforcement penalties or forfeiture.
 - iii. Qualifications for further permitting.
 - iv. Removal requirements or discontinuation.

These items may or may not be a part of any amendment that the City may consider, depending on the City's approach to the issue. As noted in prior discussions, many passionate supporters may be willing, and even enthusiastic, about a rigorous set of standards and diligently follow all requirements. Even so, this can still lead to issues, however, many such supporters are in favor of permitting to avoid arbitrary complaint-based enforcement.

The issue in many cases is with those who enter into chicken ownership without adequate awareness of the time and dedication required to comply with the rules, as well as to avoid conflicts with neighbors. It is these cases that the City would need to be prepared for if the amendment was to be considered.

If the Planning Commission, and ultimately the City Council, decide to proceed, a discussion of the above points should occur, and staff can prepare an ordinance to address that direction.

Summary:

Chickens can be a highly divisive issue for small communities. The connection to the rural landscape often results in an interest in pursuing rural actions, even though the community development pattern is

more urban or suburban in character. The interest in residential chickens is most often brought by those who would be responsible owners, and have the level of commitment needed to maintain their facility, the city is not likely able to ascertain in advance who will manage their use well, and then it becomes both a negative impact on neighborhoods, and a burden on the city to enforce its licensing or nuisance regulations.

There are certainly areas where chickens in residential areas have not caused problems. Unfortunately, there are numerous examples of the opposite. Introducing a rural or agricultural use into a suburban residential district is likely to raise issues that most residential neighbors did not anticipate as a part of their occupancy. While it is possible to manage for those impacts, it can require a significant amount of attention from the City to ensure that problems do not start – or escalate – into neighborhood conflicts.

If the City chooses to pursue this further, the issue will be balancing the City's up-front processing requirements with the City staff's capacity for both reviewing permit applications, and intervening when permittees fall short of their permit obligations and complaints come in. This aspect would be the next stage of discussion if the City goes forward.

Commission Discussion and Public Comment:

Commissioner Neiberger asked about the lifespan of chickens and stated she did not believe they would be able to produce eggs for more than a few years, if that is what people are looking to have chickens for. Ms. Bonniwell stated that Commissioner Neiberger was correct and the egg-bearing years for chickens are limited and then people would have to think about how they would dispose of the chickens by slaughtering or giving to a rescue. The planner stated in his report that many times chicken rescues are overwhelmed by the amount of chickens they receive because people enter into farming chickens for eggs without understanding the whole picture. Commissioner Neiberger asked if people were looking to be allowed to have chickens for the eggs or for pets. Ms. Bonniwell stated she believed most people are looking to have eggs from raising chickens. Council Member Solarz stated that with the price of eggs, he believes the commission should consider allowing chickens and changing the ordinance.

Ms. Bonniwell stated she received one email from residents that were unable to attend the meeting and Council Member Solarz received two other emails as follows:

943 Breckenridge Lane – Andy & Bailey Krauss “We’re pro poultry and cannot attend the meeting tonight in person. Please include us as in approval of chickens in residential Montrose.”

905 Wyatt Circle – Kaitlyn & Ben Ostrander “In favor of chickens”

820 Cole Avenue – Michael & Amanda Green “In favor of chickens”

Commissioner Smallwood asked the members of the audience if they would like to speak on the matter.

205 Garfield Ave S – Michelle Otto

Ms. Otto stated that she is not in favor of having chickens because of a previous neighbor that had chickens and dumped the waste from the chickens in the pond behind his home, adjacent to the Otto home. Ms. Otto stated that this is brought up almost every year and nobody comes to the meetings in support of chickens and thinks this should be put to rest. Ms. Otto stated that residents in Montrose seem to have a hard time taking care of their domestic dogs and cats, and wouldn't think it would be any different for chickens. Ms. Otto also mentioned code enforcement and the city's lack of resources to enforce code on an active basis.

Commissioner Neiberger stated that hearing from three households via email that are in favor of chickens, and not even coming in person, is not a majority amount to use as a consideration point for allowing chickens. The commission would want to hear from several people in favor of allowing chickens before they would be willing to support allowing that type of farm animal in residential areas. Commissioner Neiberger stated she understands people wanting to support their family and having chickens for eggs seems like a good idea, but for \$6.00 someone can buy a couple dozen eggs, which would be much less work and money than having chickens for eggs. Council Member Solarz pointed out that eggs have been much less in the past and are relatively expensive and would support people having chickens for eggs.

Commissioner Cuff asked Mr. Kirmis if Delano has active code enforcement out doing inspections on the chicken coops and ensuring people are following ordinance. Mr. Kirmis stated that he did not believe Delano does proactive code enforcement and would only inspect a chicken operation if they received a complaint.

Commissioner Fraumann stated that he did some research and found a really good article that was very thorough and discussed many of the pros and cons that have been presented in the Planner reports. The article was shared with the commission members and the public that were in attendance.

Commissioner Smallwood asked if anyone had additional comments for the public hearing portion of the meeting.

Commissioner Neiberger motioned to close the Public Hearing and open the Planning and Zoning meeting at 7:38 p.m. Commissioner Cuff seconded the motion. Motion carried 4-0.

The commission had a brief conversation about whether or not they would like to change the ordinance to allow chickens, and ultimately came to the decision to keep the ordinance the same and not allow chickens in residential areas.

Commissioner Fraumann motioned to Not Amend the Zoning Code to Allow Chickens on Certain Residential Property and Keep the Current Code in Place. Commissioner Cuff seconded the motion. Motion carried 4-0

7. OLD BUSINESS

No Old Business

8. NEW BUSINESS

A. Updates from City Planner

Ms. Bonniwell stated that LGI is working on a change to their tree preservation and removal plan for their approved plat for Northridge 6th addition. Staff is currently reviewing the plans to hopefully have an amended Developer Agreement at the May 22, 2023 City Council meeting for approval consideration.

9. NEXT MEETING

A. Rescheduled to Wednesday, May 24, 2023 to be held at the Montrose Community Center – 7:00 p.m.

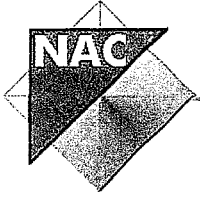
10. ADJOURNMENT

Commissioner Fraumann motioned to adjourn the meeting at 7:43 p.m. Commissioner Neiberger seconded the motion. Motion carried 4-0.

Charles Smallwood
Planning and Zoning Chair
City of Montrose

ATTEST:

Jessica Bonniwell
City Administrator
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

MEMORANDUM

TO: Montrose Mayor and City Council
 Montrose Planning Commission

FROM: Stephen Grittman

DATE: May 18, 2023

MEETING DATE: May 24, 2023

RE: Montrose – Mobile Food Units

FILE NO: 273.02

BACKGROUND

A public hearing has been called to discuss the potential for amending the City's ordinances to accommodate the operation and regulation of mobile food units, or food trucks. The current language of the City Code provides for the licensing and operation of "Transient Merchants", but typically, such merchants reside elsewhere and only operate in the City on an intermittent basis. The code also includes a recent section addressing the general operation of Food Trucks. The missing component is the zoning aspect, which is the subject of this amendment.

Because food trucks have the potential for both routine operation, and as a home occupation of local residents, the proposed ordinance developed by the City Attorney's office is designed to create a specific set of rules governing the storage and operation of these vehicles in residential areas.

The City Attorney includes the following summary of the code amendment with the proposed draft:

- 1) Defines mobile food unit and includes mobile food units as commercial vehicles *if* the mobile food unit is over 8 feet tall or 22 feet long – meaning that the mobile food units are to be treated as commercial vehicles when they exceed the threshold dimensions in the definition. See Section 1.
- 2) Includes standards similar to the rec vehicles standards for outdoor storage and parking that are also found in 1016. See Section 2.
- 3) Adds performance standards for parking and use of the mobile food unit that are similar to some of the home occupation standards (e.g., time limits on activities, stating that the activities will not product light, glare, noise, odor or vibrations that will negatively impact adjacent or

nearby property, etc.) as well as some performance standards specific to mobile food units (e.g., dumping of waste, only allowing outdoor storage of operable and licensed food truck, requiring that propane tanks are properly ventilated, prohibiting customer sales from the storage site, etc.). These can be amended as desired, but these performance standards seem reasonable to assist the city in maintaining the residential nature of the area. See Section 3.

- 4) Exempt the storage and use of mobile food units from the home occupations section. See Section 4. My recommendation is to amend the home occupations section of the code through a separate process as there are currently some contradicting definitions.
- 5) Sections 5-9 add mobile food unit parking and storage in compliance with Section 1016 as a permitted accessory use in all residential districts.

Essentially, one such truck may be parked on residential property as if it were a recreational vehicle in appropriate parking locations. Much like small commercial vehicles that are used by the resident to travel between home and work, but which are parked on the resident's property, food trucks could be parked so long as they are not actively engaged in producing products for sale.

The existing license and permitting requirements would address the operation of such vehicles when they are providing sales. The new language incorporates regulations for operation in residentially zoned areas only as a part of a special event, such as a graduation party or similar activity. Otherwise, their operation would be generally limited to commercially zoned area.

The primary distinction between mobile food trucks and other larger commercial vehicles – which are not permitted in more residential parking areas – is the exemption for these vehicles to park on residential property. The code is written to create a clause in the home occupation portion of the Zoning Ordinance to accommodate this distinction.

If the Planning Commission, and ultimately the City Council, decide to proceed, the attached ordinance would provide the necessary changes to the zoning ordinance. The general city code sections related to transient merchants would be modified slightly to ensure consistency with those changes.

SUMMARY AND RECOMMENDATION

Staff recommends approval of the proposed ordinance, as it brings the zoning aspects of food trucks in residential areas into conformance with the current general city code language, and creates limitations to govern the zoning aspects of activity and storage of such vehicles as a component of the City's home occupation regulations.

CITY OF MONTROSE
WRIGHT COUNTY, MINNESOTA

ORDINANCE NO. 2023-03

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE MONTROSE CITY
ZONING CODE
RELATING TO STORAGE OF MOBILE FOOD UNITS

THE CITY COUNCIL OF THE CITY OF MONTROSE ORDAINS:

Section 1. Section 1002-2 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the ~~struck-through~~ language below:

COMMERCIAL VEHICLE: A vehicle used for commercial purposes either greater than eight feet (8') in height or greater than twenty-two feet (22') in length, including, but not limited to: boom trucks, cargo trucks, dump trucks, farm implements, fire trucks, mobile food units, ambulances, limousines, hearses, semi-tractor trailers, tank trucks and tow trucks.

MOBILE FOOD UNIT: Either (i) a self-contained food service operation, located in a readily-movable motorized wheeled or towed vehicle that is readily movable without disassembling, and that is used to store, prepare, display, or serve food intended for individual portion service; or (ii) mobile food unit as defined in Minnesota Statutes, section 157.15, subd. 9.

Section 2. Section 1016-15 of the Montrose City Code is hereby amended by adding the following Section 1016-15(B)(5):

5. Mobile food units may be parked or stored outdoors as follows:

a. Residential Districts:

1. One (1) mobile food unit may be parked or stored outdoors in residential districts.
2. The mobile food unit shall be parked or stored upon a hard, dust-free surface.
3. The mobile food unit shall be set back a minimum of five feet (5') from any side or rear lot line and fifteen feet (15') from the edge of any public street.

Section 3. Section 1016-15 of the Montrose City Code is hereby amended by adding the following Section 1016-15(D)

D. Mobile Food Units

1. Outdoor Storage. Mobile food unit storage must follow the requirements of Section 1016-15(B)(5).
2. Gray water, for the purpose of mobile food units is wastewater created through the operations of a mobile food unit, including, but not necessarily limited to, the term's definition

in Minnesota Rules, 7080.1100, subp. 37, as it may be amended from time to time. Waste generated by the mobile food unit must be transported out of the city daily and disposed of in accordance with all Federal, State, and local regulations. Grey water may not be drained into city stormwater drains.

3. An out-of-service mobile food unit may not be stored within city limits unless inside of a fully enclosed structure. Out-of-service mobile food units include both mobile food units that are inoperable and food trucks which do not have the appropriate license(s) required by state law.

4. If the mobile food unit is stored within a residential property, then food preparation that involves the use of any heating of food shall not be allowed at the same site the mobile food unit is stored. No food preparation of any kind may occur at a residential storage site between the hours of 10:00pm and 7:00am.

5. Customer sales shall not occur from a residential storage site except when part of a private event (graduation, wedding reception, etc.) with the consent of the property owner.

6. Propane tanks must be attached or secured to the mobile food unit and must be adequately ventilated.

7. The mobile food unit shall not produce light, glare, noise, odor, or vibration that will in any way have an objectionable effect upon adjacent or nearby property. No equipment shall be used by the mobile food unit which will create electrical interference to surrounding properties.

8. The storage and use of the mobile food unit must comply with all other aspects of the city code, applicable fire and building codes, state and federal laws, rules, or other regulations.

Section 4. Section 1021-2 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

1021-2: APPLICATION: Subject to the non-conforming use provision of this Ordinance, all occupations conducted in the home shall comply with the provisions of this Chapter. This Chapter shall not be construed, however, to apply to home occupations accessory to farming, the storage of mobile food units in compliance with Section 1016-15, nor home offices as defined by this Ordinance.

Section 5. Section 1055-3 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

M. Mobile food unit parking and storage as regulated by Section 1016.

Section 6. Section 1059-3(A) of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

13. Mobile food unit parking and storage as regulated by Section 1016.

Section 7. Section 1060-3 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

M. Mobile food unit parking and storage as regulated by Section 1016.

Section 8. Section 1065-3 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

M. Mobile food unit parking and storage as regulated by Section 1016.

Section 9. Section 1066-3 of the Montrose City Code is hereby amended by adding the double-underlined language and deleting the struck-through language below:

M. Mobile food unit parking and storage as regulated by Section 1016.

Section 10. This Ordinance shall be effective immediately upon its passage and publication.

ADOPTED this 13th day of March, 2023 by the City Council of the City of Montrose.

CITY OF MONTROSE

By: _____
Kirby Moynagh, Mayor

ATTEST:

By: _____
Michael Sommerfeld, City Clerk/Treasurer