



CITY COUNCIL WORK SESSION AGENDA
Monday, September 20, 2021 10:00 AM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

Public Participation for this meeting will be in person in the City Council Chambers and via Zoom at the following link: https://us02web.zoom.us/webinar/register/WN_9oUWGeamSFaFrHT_CCPLNw

1) INTRODUCTION OF NEW CITY EMPLOYEES

Adrianna Cole - BCGC Full-Time Line Cook, Server, & Bartender
Ben Munoz - Streets Division Worker
Andy Palmer - Utilities Worker

2) YOUTH CITY COUNCIL APPLICANT INTERVIEW (5 minutes)

City Council will interview an applicant for the Montrose Youth City Council for the 2021-2022 term.

Staff: Youth City Council Coordinators Mikayla Unruh and Kailey Rhoten

3) DISCUSSION ITEMS

- A) Hawk Parkway Sidewalk Extension Project Contract Award (10 Minutes)
Staff: City Engineer Scott Murphy 3-5
- B) Revisions to Municipal Code Title 4, Chapter 1, Section 3 - Family Child Care Homes and Childcare Facilities related to the Building Code (10 minutes)
Staff: Senior Planner Amy Sharp 6-15
- C) Adult Gaming Arcade Moratorium Ordinance (30 minutes)
Staff: Senior Planner Amy Sharp, Assistant City Attorney Matthew Magliaro, Sergeant Larry Witte 16-45
- D) Grace Community Church Addition Annexation (10 minutes)
Staff: Senior Planner Amy Sharp 46-53
- E) CDOT Revitalizing Main Streets: Small Multimodal & Economic Resilience Project Grant Program Application (10 minutes)
Staff: Community Program Specialist Briceida Ortega 54-55

**Please note that the times listed are estimates of approximately how long each item may take. This time is intended to serve as a guide for the Mayor in an effort to help keep the meeting moving.*

**Hearing assistance devices are available for public use. Please let us know if you need accommodation.*



4) GENERAL CITY COUNCIL DISCUSSION

5) STAFF COMMENTS

FUTURE TOPICS

- 2021 Sanitary Sewer Cured in Place Pipe Bid Award Recommendation - October 4
- Historic Preservation Commission Applicant Interviews - October 4
- Liquor Permit for Envision Block 93 Event - October 4
- Proposed Fee Schedule Revisions - October 18
- McCracken Addition Annexation Hearing - October 19
- 2022 Budget Open House - October 19
- Historic Preservation Commission Appointments - October 19
- 2022 Budget Ordinance - November 2
- Grace Community Church Addition Annexation Hearing - November 16

Zoom Meeting Details

https://us02web.zoom.us/webinar/register/WN_9oUWGeamSFaFrHT_CCPLNw

Join by phone:

1 253 215 8782

1 346 248 7799

1 669 900 9128

1 301 715 8592

1 312 626 6799

1 646 558 8656

Webinar ID: 850 7382 3120

International numbers available: <https://us02web.zoom.us/j/k1H5tOikd>

CONTRACT AWARD CONSIDERATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: September 13, 2021
RE: Hawk Parkway Sidewalk Extension Contract Award Consideration
CC: William Bell, Shani Wittenberg

Action

Consider the award of a contract to Agave Construction in the amount of \$75,900 for construction of the Hawk Parkway Sidewalk Extension Project.

Background

The City of Montrose is continually working to improve pedestrian connectivity throughout the City by constructing and/or rehabilitating missing-link sidewalks, especially along major roadways. To that end, the City is looking to construct approximately 500 feet of sidewalk along the western side of Townsend Avenue between Hawk Parkway and Ogden Road. This project also supports a recent sidewalk extension performed by Golden Gate Petroleum on the southwestern corner of Townsend Avenue and Ogden Road as part of their site development. An overview of the project is included as an attachment to this memo.

Project Bidding and Contract Award

Construction of the project was put out for bid on August 22nd and bids were publically received on September 9, 2021. Bids were received from four contractors as summarized in Table 1 below. Bid totals presented in this table include a 10% contingency.

TABLE 1		
Summary of Bid Results		
Contractor	Location	Bid Total
Agave Construction	Grand Junction, CO	\$75,900.00
Skip Huston Construction	Montrose, CO	\$98,170.60
Western Gravel Constructors	Montrose, CO	\$122,100.00
Ridgway Valley Enterprises	Montrose, CO	\$135,080.00

The City does not have any contracting experience working with Agave Construction; however, their references are favorable and this project is small enough to serve as a good entry project for a new contractor. As a result, contract award is recommended to the low bidder, Agave Construction. The City's local preference policy would not change the outcome of bidding in this case.

Traffic Control and Schedule

All work for this project will take place along the shoulder of Townsend Avenue without the need for any road closures. Access will remain open to all nearby businesses throughout construction and work is expected to last through the end of 2021.

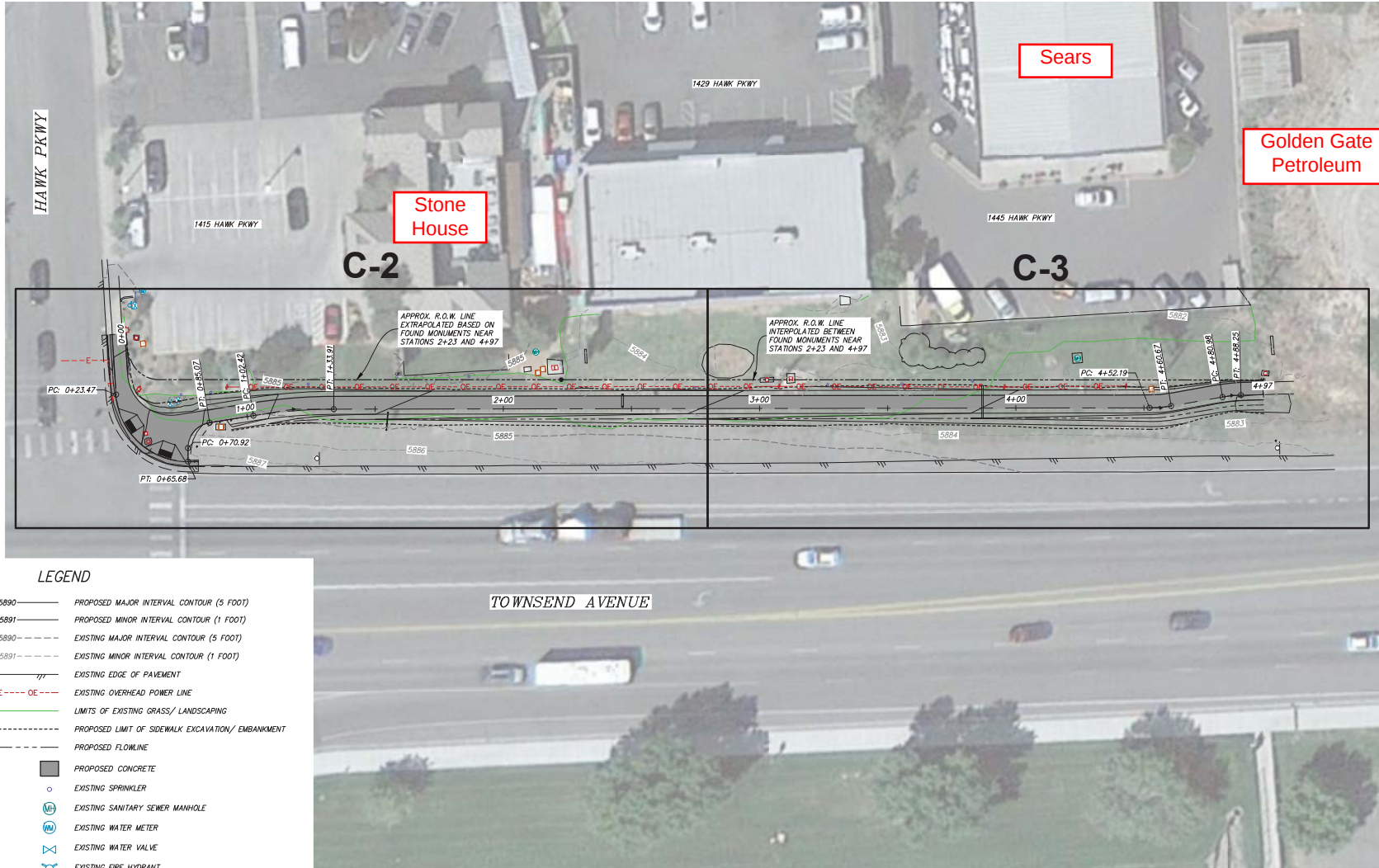
Contract Award Consideration
Hawk Parkway Sidewalk Extension Project
September 13, 2021

Contract Administration and Project Financials

Contract administration and project management will be performed by the City of Montrose engineering department.

The 2021 budget included \$50k for construction of this project, placing the proposed contract amount \$26k over this budget. The budget overage is suspected to be a result of low concrete contractor availability. Savings on other sidewalk construction line items and capital projects will be utilized to fund this overage.

Z:\CWA\2021\2021-089-CITY Golden Gate Sidewalk - Summary\65040 Golden Gate Sidewalk Plans.dwg PLOT DATE: 2021-08-18 11:52 SAVED DATE: 2021-08-18 11:51 USER: cbrownham



LEGEND

- 5890 — PROPOSED MAJOR INTERVAL CONTOUR (5 FOOT)
- 5891 — PROPOSED MINOR INTERVAL CONTOUR (1 FOOT)
- 5890 --- EXISTING MAJOR INTERVAL CONTOUR (5 FOOT)
- 5891 --- EXISTING MINOR INTERVAL CONTOUR (1 FOOT)
- EXISTING EDGE OF PAVEMENT
- OE --- EXISTING OVERHEAD POWER LINE
- LIMITS OF EXISTING GRASS/ LANDSCAPING
- PROPOSED LIMIT OF SIDEWALK EXCAVATION/ EMBANKMENT
- PROPOSED FLOWLINE
- PROPOSED CONCRETE
- EXISTING SPRINKLER
- ⊕ EXISTING SANITARY SEWER MANHOLE
- ⊕ EXISTING WATER METER
- ⊕ EXISTING WATER VALVE
- ⊕ EXISTING FIRE HYDRANT
- ⊕ EXISTING POWER POLE
- ⊕ EXISTING ELECTRICAL PEDESTAL/VAULT/METER
- ⊕ EXISTING LIGHT POLE
- ⊕ EXISTING FIBER OPTIC VAULT/PEDESTAL
- ⊕ EXISTING FIBER OPTIC VAULT/PEDESTAL
- ⊕ EXISTING TRAFFIC SIGN
- EXISTING SURVEY MONUMENT



OVERALL SITE PLAN
SCALE IN FEET
0 20 40

PRELIMINARY
NOT FOR CONSTRUCTION



REV	DATE	DESCRIPTION	BY

BUCKHORN
ENGINEERING
222 South Park Avenue
Montrose, Colorado 81401
970-249-6828

CITY OF MONTROSE
HAWK PARKWAY SIDEWALK EXTENSION
OVERALL SITE PLAN

PROJECT	21-089-CV
DATE	08/18/2021
DESIGNED	CB
CHECKED	JK
BUCKHORN ENGINEERING	SHEET
C-1	



CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: September 7, 2021
RE: City of Montrose Municipal Code Update, Section 4-1-3
EXHIBITS: House Bill 21-1222
Ordinance Amending MC 4-1-3 of Building Code (Redline & Clean Version)

City staff have undertaken a review of the Municipal Code Title 4, Chapter 1, Section 3 (C) in order update building code requirements for various daycare, child care, adult day care, and residential group facilities. This Code amendment is in response to House Bill 21-1222 (attached) which was signed June 7, 2021. This House Bill expands opportunities to access child care in family child care homes. According to this House Bill, family child care homes shall be treated as residential property use. This Code Amendment changes the requirement from five (5) children to twelve (12) children in the following sections to reflect the State law.

Recommended Actions:

1. Update Municipal Code Title 4, Chapter 1, Section 3 (C) to add #11-16 in Subsection (C) to reflect this change.
 - (11) Section 305.2 Daycare is amended by deleting five (5) and replacing with twelve (12).
 - (12) Section 308.4 Group I-4, Day Care Facilities is amended by deleting five (5) and replacing with twelve (12).
 - (13) Section 308.5.1 Adult Day Care is amended by deleting five (5) and replacing with twelve (12).
 - (14) Section 308.5.2 Child Care Facility is amended by deleting five (5) and replacing with twelve (12).
 - (15) Section 308.5.2 Child Care Facility, exception is amended by deleting five and replacing with twelve (12).
 - (16) Section 310.1 Residential Group R is amended by deleting five (5) and replacing with twelve (12).

An Act

HOUSE BILL 21-1222

BY REPRESENTATIVE(S) Valdez A. and Van Winkle, Burnett, Caraveo, Carver, Catlin, Cutter, Daugherty, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Jackson, Kipp, Lontine, Lynch, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Pelton, Ransom, Ricks, Sandridge, Sirota, Tipper, Titone, Valdez D., Van Beber, Will, Williams, Woog, Young, Garnett, Amabile, Baisley, Bird, Boesenecker, Froelich, Geitner, McKean, Pico, Snyder, Sullivan, Woodrow; also SENATOR(S) Smallwood and Winter, Bridges, Buckner, Cooke, Danielson, Fields, Ginal, Gonzales, Hisey, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Pettersen, Priola, Rankin, Scott, Simpson, Sonnenberg, Story, Zenzinger, Garcia.

CONCERNING ALIGNING LOCAL GOVERNING AUTHORITY REGULATIONS TO
EXPAND OPPORTUNITIES TO ACCESS CHILD CARE IN FAMILY CHILD
CARE HOMES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Colorado has a shortage of licensed, safe, and affordable child

care options, while at the same time there is a growing need for child care in order to bolster the economy and allow parents to work;

(b) Family child care homes provide an essential element of the child care network in both urban and rural parts of the state. In fact, in many counties, there are no licensed child care centers, making family child care homes the only option families have for licensed child care.

(c) Many parents prefer child care that is located in family homes within their neighborhood so their children can experience a home-like environment that is conducive to healthy and safe development.

(2) The general assembly further finds that:

(a) Zoning, land use development, building, and fire standards that vary across the state and that treat family child care homes differently from family residences are difficult for providers to meet, create undue hardship and barriers to entry, and negatively impact the number of providers willing and able to offer licensed child care; and

(b) The child care licensure rules promulgated by the Colorado department of human services provide rigorous protections for children's health and safety, including protective standards relating to fire and life safety, sanitation, and physical environment in family child care homes.

(3) Therefore, the general assembly declares that the regulation of family child care homes throughout the state is a matter of statewide concern and the inconsistent regulation by local governments relating to zoning, land use development, building codes, and fire and life safety hinders the ability of the state department of human services to license and inspect family child care homes and to provide accessible, safe, and affordable licensed child care options for all Colorado parents.

SECTION 2. In Colorado Revised Statutes, 26-6-104.5, **amend** (1) as follows:

26-6-104.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure.

(1) (a) The department shall require any child care facility seeking licensure pursuant to section 26-6-104 to comply with any applicable

zoning AND LAND USE DEVELOPMENT regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning AND LAND USE regulations ~~shall constitute~~ CONSTITUTES grounds for the denial of a license to a facility.

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION TO THE CONTRARY, THE AVAILABILITY OF SAFE, AFFORDABLE, AND LICENSED FAMILY CHILD CARE HOMES IS A MATTER OF STATEWIDE CONCERN. THEREFORE, PERMITTING FRAGMENTED REGULATION AMONG JURISDICTIONS IMPEDES AND INFRINGES UPON THE DEPARTMENT'S APPROPRIATE AND CONSISTENT LICENSING AND REGULATION OF FAMILY CHILD CARE HOMES THROUGHOUT THE STATE. ACCORDINGLY, LOCAL GOVERNING AUTHORITIES SHALL TREAT FAMILY CHILD CARE HOMES AS RESIDENTIAL PROPERTY USE IN THE APPLICATION OF LOCAL REGULATIONS, INCLUDING ZONING, LAND USE DEVELOPMENT, FIRE AND LIFE SAFETY, SANITATION, AND BUILDING CODES. LOCAL GOVERNING AUTHORITIES SHALL NOT IMPOSE ANY ADDITIONAL REGULATIONS GOVERNING FAMILY CHILD CARE HOMES THAT DO NOT ALSO APPLY TO OTHER RESIDENTIAL PROPERTIES, PROVIDED THAT THE FOREGOING DOES NOT RESTRICT AN AUTHORITY'S ABILITY TO PROHIBIT, ON A CASE-BY-CASE BASIS, THE OPERATION IN IMMEDIATELY ADJACENT RESIDENCES OF TWO OR MORE LARGE FAMILY CHILD CARE HOMES, AS THAT TERM IS DEFINED BY RULES BY THE DEPARTMENT THAT GOVERNS THE OPERATION OF FAMILY CHILD CARE HOMES, OR TO MANAGE THE FLOW OF TRAFFIC AND PARKING RELATED TO ADJACENT LARGE FAMILY CHILD CARE HOMES. RESIDENTIAL USE OF PROPERTY FOR ZONING PURPOSES INCLUDES ALL FORMS OF RESIDENTIAL ZONING AND, SPECIFICALLY, ALTHOUGH NOT EXCLUSIVELY, SINGLE-FAMILY RESIDENTIAL ZONING.

SECTION 3. In Colorado Revised Statutes, 26-6-106, **amend** (1)(a) as follows:

26-6-106. Standards for facilities and agencies - rules.

(1) (a) The department shall prescribe and publish standards for licensing. ~~Such~~ THE standards ~~shall~~ MUST be applicable to the various types of facilities and agencies for child care regulated and licensed by this part 1; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing ~~such standards. Such~~

~~standards shall~~ THE STANDARDS, INCLUDING THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY AND COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS AND BUILDING CODE OFFICIALS IN THE PROMULGATION OF ANY RULES RELATED TO ADEQUATE FIRE PROTECTION AND PREVENTION, AS ALLOWED IN SUBSECTION (2)(e) OF THIS SECTION, IN A FAMILY CHILD CARE HOME. THE STANDARDS MUST be established by rules promulgated by the state board of human services and ~~shall~~ be issued, and published, AND BECOME EFFECTIVE only in conformity with ~~the provisions and procedures specified in article 4 of title 24. C.R.S., and shall become effective only as provided in said article.~~

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE

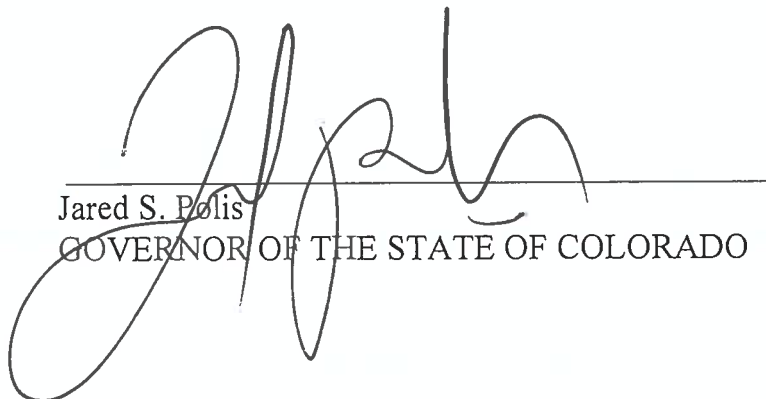


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 7, 2021 at 12:40 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 4 CHAPTER 1, SECTION 3 BUILDING REGULATIONS OF THE CITY OF MONTROSE: AMENDING TITLE 4 CHAPTER 1 SECTION 3 (4-1-3) REGARDING BUILDING REGULATIONS.

WHEREAS, the City's Building Regulations are updated from time to time;

WHEREAS, this update hereby amends the Building Regulations for daycare, daycare facilities, adult day care, childcare facilities, and residential group R.

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

The following Sections of Title 4 Chapter 1 Section 3 of the Official Code of the City of Montrose, Colorado are hereby amended as follows: Title 4 Chapter 1 Section 3 (4-1-3) is hereby amended by adding Subsection (C) 11-16. This version supersedes all previous versions of Montrose Municipal Code § 4-1-3 (C), to read as follows:

Sec. 4-1-3. Deletions, modifications and exceptions to the codes adopted by reference.

(C) The International Building Code, 2003 edition, is amended as follows:

- (1) References to jurisdiction in Section 101.1 and elsewhere mean the City.
- (2) The flood insurance study and maps referred to in Section 1612 are as adopted by Chapter 4-2 of the Official Code of the City of Montrose, Colorado.
- (3) Chapter 13 and Sections 101.4.1, 101.4.5, 103, 104.7, 104.8, 108.3, 108.4, 108.6, 112, 113.1, 113.3, 113.4, and 3410.2 are deleted.
- (4) Section 105.2 is amended to exempt the following from permit requirements:
 - (a) Uncovered decks and platforms.
 - (b) Replacement of sinks, faucets, showers, tubs, water heaters, dishwashers, garbage disposals and lawn sprinkler systems.
 - (c) Window and door replacement.

- (d) Fences.
- (5) All foundations submitted for habitable structures or additions to habitable structures, excluding patio covers and carports shall be site specific, stamped and signed by an engineer registered in the State of Colorado. One story detached accessory use structures less than 500 square feet in floor area, patio covers and carports need only comply with the requirements illustrated in the Figure set out in Subsection (J) of this Section.
- (6) Swing and opening force. Exit doors serving an occupant load of 10 or more shall be of the pivoted, balanced, or side hinged swinging type. Exit doors shall swing in the direction of the path of exit travel. The door shall swing to the fully open position when an opening force not to exceed 30 pounds (133.45N) is applied to the latch side. Doors shall not project over public sidewalks.
- (7) A second point of egress meeting the requirements of Section R310 (IRC) and Section 1025 (IBC) shall be provided in all basements at the time of initial construction of the basement.
- (8) Common wall between a garage and residence must be one hour rated. Door between a garage and a residence must be solid core minimum 1 3/8 inches thick.
- (9) Party walls between dwelling units shall be constructed in accordance with figures in Subsection (K), (L) or (M) of this Section.
- (10) The exception from permit requirements for accessory buildings in IBC Section 105.2, is amended to read as follows:

Building. No more than one, one-story detached accessory structure for each premises as tool and storage sheds, playhouses and similar uses provided the floor area cannot exceed 200 square feet.

- (11) **Section 305.2 Daycare** is amended by deleting five (5) and replacing with twelve (12).
- (12) **Section 308.4 Group I-4, Day Care Facilities** is amended by deleting five (5) and replacing with twelve (12).
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CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
Matthew Magliaro, Assistant City Attorney
Sergeant Larry Witte
DATE: September 20, 2021
RE: Adult Gaming Arcade Moratorium Ordinance
ATTACHMENTS:

- Exhibit A: Zoning Map
- Exhibit B: Ordinance – Redline & Clean Version
- Exhibit C: Letters

Background & Purpose

City staff have undertaken a review of the Municipal Code and the Colorado Constitution in order to define and better understand gambling, gaming, and related terms, as well as where it should be allowed within the City of Montrose. The Colorado Constitution regulates unlicensed gaming and authorizes limited gaming only within the commercial districts in municipal limits in Central City, Black Hawk and Cripple Creek.

There are currently four businesses within the city limits that are engaged in the business of providing access to and the use of various video gaming machines that accept money and/or tokens from customers and pay monetary prizes. These activities may fit (although uncertain at this time) the legal definition of slot machine, gambling device, and/or simulated gambling device which are prohibited under Colorado state law. These businesses, which the City is hereby referring to as Adult Gaming Arcades, have had secondary, negative impacts on neighboring businesses. Increased crime has also been reported in the area surrounding these businesses, including illegal drug use, illegal drug distribution, public intoxication, violent crime, and increased calls for service at and around these businesses from the Montrose Police Department. New businesses are being created to try and work around the definition of gambling and where it could be allowed in various municipalities throughout Colorado.

A temporary moratorium and ordinance amending the Municipal Code is being requested in order to address public health, safety and welfare. This temporary moratorium would prohibit any new businesses of this type to relocate within city limits and also eliminate the ability for

these businesses to relocate to a new address within city limits during the moratorium time period. This ordinance would define some of the terms associated with these establishments and place conditions for operation for those businesses already located within city limits, in order to implement urgently needed regulations during the moratorium time period. This temporary moratorium and ordinance would provide City staff the time necessary to conduct further analysis of the impacts from Adult Gaming Arcades, whether such uses should be prohibited, or if they are legal, what zoning districts are most appropriate for this type of use.

Zoning

As shown on the attached map (Exhibit A), there are currently four Adult Gaming Arcades within the city limits. One business is currently located in the “B-1” Central Business District, and three businesses are located in the “B-2” Highway Commercial District. Two businesses are located across the street from Pomona Elementary School.

Current Locations

- 401 N 1st St (Tap In)
- 1010 S Cascade Ave #C (Spin N Win)
- 1010 S Cascade Ave #A (Mad Skillz)
- 16367 S Townsend Ave (Gone Fishing)

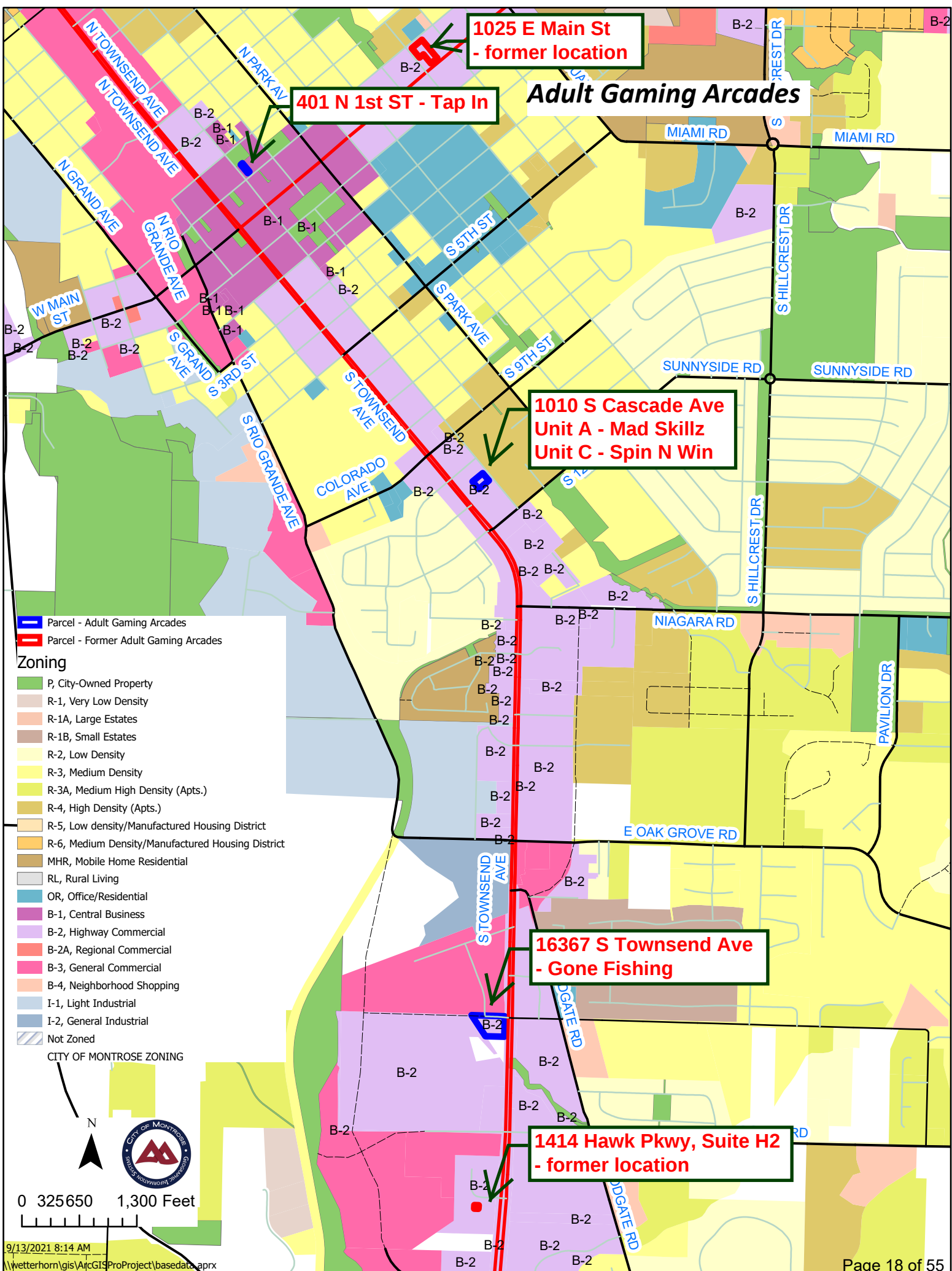
Former Locations

- 1414 Hawk Pkwy, Suite H2 – no longer in existence, relocated to 1010 S. Cascade #A
- 1025 E Main St (The Game Room) – no longer in existence (changed to Gone Fishing)

Ordinance Summary:

1. Defines terms including slot machine, gambling device, simulated gambling device, adult gaming arcade, and crane game to better understand the various terms used in this industry.
2. Enacts a temporary, 180-day moratorium on all new establishments not in existence or the relocation of existing establishments constituting Adult Gaming Arcades, Slot Machines, Gambling Device, and Simulated Gambling Device from the effective date of this Ordinance. This would help to ensure no new establishments of this type are allowed within city limits, nor current establishments of this type relocated to new locations within city limits until further research is conducted. If a current establishment of this type closes, a new one would not be allowed to replace it during this moratorium.
3. Include a set of conditions of operation for Adult Gaming Arcades that are currently in existence to address public health, safety and welfare.





1025 E Main St
- former location

401 N 1st ST - Tap In

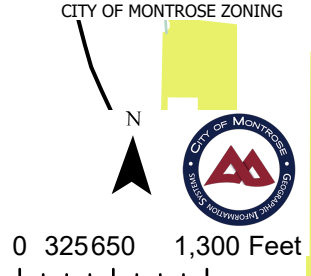
Adult Gaming Arcades

1010 S Cascade Ave
Unit A - Mad Skillz
Unit C - Spin N Win

16367 S Townsend Ave
- Gone Fishing

1414 Hawk Pkwy, Suite H2
- former location

- Parcel - Adult Gaming Arcades
- Parcel - Former Adult Gaming Arcades
- Zoning**
- P, City-Owned Property
- R-1, Very Low Density
- R-1A, Large Estates
- R-1B, Small Estates
- R-2, Low Density
- R-3, Medium Density
- R-3A, Medium High Density (Apts.)
- R-4, High Density (Apts.)
- R-5, Low density/Manufactured Housing District
- R-6, Medium Density/Manufactured Housing District
- MHR, Mobile Home Residential
- RL, Rural Living
- OR, Office/Residential
- B-1, Central Business
- B-2, Highway Commercial
- B-2A, Regional Commercial
- B-3, General Commercial
- B-4, Neighborhood Shopping
- I-1, Light Industrial
- I-2, General Industrial
- Not Zoned



All Tangled Up Salon

1010 S Cascade Avenue, Suite B
Montrose, CO 81401
970-275-8801

September 13, 2021

To whom it may concern:

My salon is located in between The Spin and Win and David's Tables. I have rented a space in the building since September of 2019. In the time since I started renting at this location I have had a lot of problems with my neighbors and their customer base. There have been multiple times that I have found drug paraphernalia in the parking lot, including having Montrose Police Department come pick up a bag full of some sort of drugs. There are always a lot of people hanging around the building smoking, drinking, and yelling profanities. In January of this year my salon was involved in a burglary. The end goal of the burglary was to get into the office of The Spin and Win. They broke into my business, stole \$5,000 worth of things and then cut a hole in the wall to burrow their way into The Spin and Win's unit. At the end of August, I was involved in another burglary at the Salon. They came from David's Tables and into my unit.

Over the course of the last two years I have gone to the salon late at night a handful of times to show my camera footage to the police department. There have been stabbings, kidnappings, fights, and plenty of arrests happening next door to me.

I worry that all of this criminal activity is located right across the street from Pomona Elementary and that the criminal activity will escalate and not only put me and the girls in my salon at risk- but the kids in school.

I have had many clients to my salon refuse to come back for their services because of the customers that frequent the gambling places and have had a few negative reviews on google just because of who my neighbors are.

All these things have had a huge impact on my business, as well as my sanity. It is hard to work in an environment that feels so unsafe.

Thank you for your time,

Kiley Nicholas

Owner

Hispanic Affairs Project



17 N. 6th Street, Suite A, Montrose, CO 81401
PO Box 2024, Montrose, CO 81402
(970) 249-4115 · hapgj.org

Montrose City Council
City of Montrose
433 S 1st Street
Montrose, CO 81401

September 8, 2021

Dear Members of the Montrose City Council:

I am writing to express my concerns about the safety issues related to online gambling venues functioning in our community. For three years, the Hispanic Affairs Project was a tenant in the building located at 1010 S. Cascade Ave across from Pomona Elementary School. As soon as the online gambling business opened in this building, we began to have major safety concerns, not only for our staff and the community we serve, but also for the students at Pomona Elementary School.

While we respect most local businesses and their benefits to our community, with this particular business, the degree of loitering, littering, graffiti, and safety concerns increased significantly which impacted our ability to effectively serve our community. Our staff witnessed fights and almost gang-like groups confronting each other in the building parking lot. Additionally, vagrants began to hang around the building and sleep in the grass in front of the entrance to our office.

In September 2020, an individual was arrested outside of the building in front of our office. It was concerning to see our office parking lot filled with multiple vehicles from the Montrose Police Department (MPD). The following day I was in a meeting with my staff and looked out the window to see two MPD officers approaching the gambling business with their handguns drawn. On both occasions, we felt the need to close the window blinds and lock ourselves inside our office. If we felt threatened, then you can only imagine how the community we serve might feel upon coming to seek our services.

During the time we were tenants in the building, we called the owner of the building to express concerns and were told that there was nothing they could do and that we needed to call the MPD if we had concerns. We were in touch with Chief Hall to express our concerns. Since then, we have relocated our office to another location due to these safety concerns.

I encourage the City of Montrose to take action to address the safety concerns that stem from unregulated businesses such as online gambling to ensure the safety of our community.

Sincerely,

Ricardo Perez
Executive Director

To whom it may concern,

My name is Bryant Hunter, I am a local business owner that is in close proximity to "Tap in" and I am writing this letter to express some concerns.

Since the opening of "Tap in" there has been a lot of suspicious activity. The loitering has tremendously increased, there has been fights, littering of trash, and a lot of smoking in front of local businesses. There have been isolated incidents where it has been reported that people are opening car doors and even harassing people that are not affiliated with "Tap in". My greatest concern is that I have notice how the area is starting to feel unsafe, especially for children in the area.

My reason for this letter is to request the city to hopefully set stricter mandates as well as approve designated locations for business in categories such as "Tap in". Thank you so much for your consideration in this matter.

Thank you,


Bryant Hunter



To whom it may concern,

My name is Kaleigh Hinkson, and I am the owner and director of Elevation Academy of Dance. We are in our third season and, I am proud to say, a thriving small business in the Montrose community offering dance education for youth, as well as a Pre-Professional Student Company and Traveling Competitive Team not offered elsewhere in our area.

For the past several months we have had ongoing issues with the adult gaming facility next door, Tap In (we actually share an interior door with their unit). We have had to keep our doors locked during classes since the spring when one of their staff came into our lobby during classes demanding to see our surveillance footage because someone stole his bike. We have had issues ranging from drug addicts scratching at the lobby windows and trying to get in, drunk people vomiting in the parking area, domestic disturbances, and the list goes on (see below). The clientele this type of business attracts is scary and the situation has become increasingly unsafe. The area is absolutely unfit for my business and I am dealing with MANY concerned Montrose families. I have lost students, had to cancel rehearsals, and am afraid I cannot attract new clients with the area the way it is.

Some of the issues we have had:

- Customers, owner, and staff of Tap In smoking cigarettes inside their unit
- Customers, owner, and staff loitering in front of business doors and smoking cigarettes in front of business doors (despite being asked not to by myself and the landlord).
- Alcohol bottles found in parking area
- Cigarette butts thrown about the sidewalk, parking area, and under tree on sidewalk.
- Drunk people vomiting out of their car doors while dancers and parents are going to and from their cars
- Inappropriate screaming arguments in the parking area
- Suspicious activity until 4:00am every night (people going to and from cars, handing things in and out of car windows, smoking)
- They are leaving their business door open and blasting wildly inappropriate music while we have young dancers/parents going to and from their cars

(970)252-6321 | info@elevationacademyofdance.org

www.elevationacademyofdance.org



- Called police regarding them racing a crotch rocket up and down the sidewalk in front of my business
- Called police due to a man on drugs trying to get into the studio and trying to get into cars. This happened TWICE recently.
- Called police due to domestic disturbance. There was a woman crying and screaming, loud noises, a man screaming at her. This all happened in the back area of Tap In and we could hear it through our swamp cooler.
- I'm sure you have heard about the murder attempt and open gunfire that occurred on July 16th.
- During our summer classes the staff would stand outside when we closed and intimidatingly watch us walk to our cars.
- Called police on 8/30/21 regarding people yelling and fighting outside the Tap In back entrance

The major incidences continue to escalate, and we do not feel safe in our location. I am writing not to complain, but to make sure everyone is aware of the situation and to hopefully, find a solution. I have invested so much into this business, and we were growing and thriving (even through Covid) before Tap In opened. It is an absolute shame to see this kind of business allowed to operate and drive away good, honest businesses that are doing great things for our community and youth.

I hope you'll take this situation to heart and consider any options you may have. My contact information is below, and I look forward to hearing from you.

Sincerely,

Kaleigh Hinkson
Owner & Director
Elevation Academy of Dance



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413 N. 1st St., Montrose, CO 81401

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Owner & Director
Elevation Academy of Dance

413 N. 1st St., Montrose, CO 81401

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, DECLARING ZONING IN PROGRESS AND ENACTING A TEMPORARY MORATORIUM TO PROHIBIT THE FILING, ACCEPTANCE, SALES TAX LICENSURE, OR ANY OTHER OFFICIAL ACTION FOR THE ESTABLISHMENT OF ANY NEW OR RELOCATION OF EXISTING ADULT GAMING ARCADE USES WITHIN THE CITY LIMITS OF THE CITY OF MONTROSE; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE AT THE EARLIEST OF THE CITY'S ADOPTION OF AN UPDATE TO TITLE 4 CHAPTER 4, ZONING REGULATIONS OF THE CITY OF MONTROSE, TITLE 4, CHAPTER 14 ADULT BUSINESS REGULATIONS, AND/OR TITLE 5 BUSINESS REGULATIONS OF THE CITY OF MONTROSE OR THE EXPIRATION OF ONE HUNDRED EIGHTY (180) DAYS FROM DATE OF PASSAGE OF THIS ORDINANCE; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT, AND PURPOSE; PROVIDING FOR A DEFINITION OF THE USE OF ADULT GAMING ARCADES FOR THE PURPOSES OF THIS ORDINANCE; AND PROVIDING REPEALING CLAUSES.

WHEREAS, the City of Montrose is a home rule municipal corporation operating under adopted charter pursuant to § 6 of Article XX of the Colorado Constitution; and

WHEREAS, Article XVIII, §§2 and 9 of the Colorado Constitution regulates unlicensed gaming, and authorizes limited gaming only within the commercial districts in municipal limits of Central, Black Hawk and Cripple Creek in the State of Colorado; and

WHEREAS, opinions from the Colorado Office of the Attorney General have evaluated a set of facts involving attempted expansions of gambling via electronic means such as online gambling and on-site server-based sweepstakes cafes using encoded cards with a cash value and have determined said uses to be contrary to Colorado state law in the absence of a state constitutional amendment expanding the definition of limited gaming in Colo. Const. Art. XVIII, §9: CO AG Opinion No. 13-02 (Dec 13, 2013); CO AG Opinions 14-03 (Oct. 9, 2014); and

WHEREAS, the Colorado Supreme Court has recognized the authority of a home rule municipality to enact regulation of gambling as a matter of local concern, in *Woolverton v City and County of Denver*, 361 P.2d 982, 988-990 (Colo. 1961), *overruled on other grounds by, Vela v People*, 484 P.2d 1204 (Colo. 1971); and

WHEREAS, the City of Montrose has exercised this authority in its history to deem it unlawful and to set criminal penalties for “any person to play at any game whatsoever for any sum of money or other property of value, or to make any bet or wager for any sum

of money or other property of value upon the result of such game[,]" and to prohibit allowing minors to engage in same, (Montrose City Ord. 122, passed September 11, 1918); and

WHEREAS, the City's Business and Zoning Regulations are a matter of local control and purposed to promote the public health, safety, and welfare; and

WHEREAS, the City's Zoning and Business Regulations are updated from time to time; and

WHEREAS, there are now existing within the jurisdiction boundaries of the City of Montrose establishments that are engaged in the business of providing access to and the use of video gaming machines that accept money and/or tokens from patrons and pay monetary prizes that may fit the legal definition of slot machine, gambling device, and/or simulated gambling device prohibited under Colorado state law; and

WHEREAS, the businesses engaged in this activity referred herein as Adult Gaming Arcades sited within the jurisdictional boundaries of the City of Montrose have had secondary, negative impact upon neighboring business, the community and the public in the form of increased crime, to wit: illegal drug usage; illegal drug distribution; public intoxication; violent crime and increased calls for service at and around their locations from the Montrose Police Department; and

WHEREAS, a temporary moratorium on all new establishments not in existence or the relocation of existing establishments as of the effective date of this Ordinance, and on the acceptance of applications for, the process of, and the issuance of any permit, site plan approval, sales tax licensure or any other official action of the City of Montrose permitting or having the effect of permitting Adult Gaming Arcades will allow time for the City Attorney's Office, Montrose Police Department, City Manager's Office, and/or other relevant legal authorities to conclude a review of existing establishment(s) and will help prevent prospective business operators from opening new businesses within the city limits that could be determined to be illegal simulated gambling establishments or otherwise prohibited; and

WHEREAS, this moratorium or zoning in progress ordinance is being enacted to provide the City staff with sufficient time to evaluate the use referred to herein as Adult Gaming Arcades; and

WHEREAS, after evaluation of the uses referred to hereinabove, City staff may deem it appropriate to develop land development regulations and business licensing regulations to define the use of 'Adult Gaming Arcade,' to regulate licensure and hours of permissible operation by such uses, and to specify particular zoning districts where said uses may operate either as uses by right or as conditional uses or as non-conforming,

prohibited uses under the code; and

WHEREAS, the City Council of the City of Montrose determines that it is necessary to impose a temporary, one-hundred-eighty-day (180) moratorium commencing on the date of passage of this ordinance to allow sufficient time for the conclusion of review; and

WHEREAS, the City Council of the City of Montrose has determined that the changes within this ordinance to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

The following Section is added to Title 4, Chapter 14 Adult Business Regulations, of the Official Code of the City of Montrose, Colorado, including an amendment to Section § 4-14-1, and a new Section § 4-14-10. Title 4, Chapter 14, Section 10 is hereby added (§ 4-14-10), to read in full as follows:

4-14-1 Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult arcade means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store, or adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe specified sexual activities or specified anatomical areas; or
- (B) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

- (A) Persons who appear nude or in a state of nudity or seminudity; or
- (B) Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Gaming Arcade means any business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person or by that person's partners, affiliates, subsidiaries, agents, or contractors which features (i) slot machine(s), (ii) gambling device(s), (iii) simulated gambling device(s), or (iv) any mechanical, electrical, video, electronic, or other device, contrivance or machine which after insertion or conveyance of a coin, debit card, credit card, cash, token or similar object or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive monetary compensation and/or redeemable game credits, or any other thing of value. This definition expressly includes 'fish game' 'fish game table' 'fish game gambling table' however denominated that consists of a tabletop electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, redeemable game credits or any other thing of value for successful play, whether the redeemable payout is made automatically from the machine or from an employee of the business location. This definition expressly excludes any business location which features bona fide amusement devices that pay nothing of value, cannot be adjusted to pay anything of value, provide only unredeemable free games, or provide only tickets redeemable for nonmonetary prizes consisting of toys or novelties of nominal value; crane games; coin-operated music machines; or any bona fide amusement device authorized within restaurants by Colorado Revised Statute § 44-3-103(47).

Adult motel means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

Adult motion picture theater means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear

in a state of nudity or live performances which are characterized by an emphasis on exposure of specified anatomical areas or by specified sexual activities.

Commercial establishment means an establishment that may have other principal business purposes that do not involve the depicting or describing specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

Crane Game means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

Employee means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

Establishment of a sexually oriented business means and includes any of the following:

- (A) The opening or commencement of any such business as a new business;
- (B) The conversion of an existing business into a sexually oriented business;
- (C) The addition of a different sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of a sexually oriented business.

Foyer means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

Gambling Device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game.

Manager means an operator, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Nudity or state of nudity:

- (A) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- (B) A state of dress which fails, opaquely and fully, to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Operator means includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business.

Peep booth means a room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of specified anatomical areas or specified sexual activities.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

Principal business purpose means any establishment, having as a substantial or significant portion of its stock in trade the items listed in Subsections (A) and (B) of the definition of adult bookstore, adult novelty store, or adult video store in this Section and having on the premises at least 30 percent of the establishment's display space occupied by the display of the items described therein.

Principal owner means any person owning, directly or beneficially:

- (A) Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or
- (B) In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

Public park means an area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult

theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes.

Seminude or seminudity means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

Simulated Gambling Device means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in Colorado Revised Statute § 44-3-103 (47), that pay nothing of value and cannot be adjusted to pay anything of value. "Simulated gambling device" includes: **(I)** A video poker game or any other kind of video card game; **(II)** A video bingo game; **(III)** A video craps game; **(IV)** A video keno game; **(V)** A video lotto game; **(VI)** A video roulette game; **(VII)** A pot-of-gold; **(VIII)** An eight-liner; **(IX)** A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols; **(X)** An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine; **(XI)** A slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution; and **(XII)** A device that functions as, or simulates the play of, a slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution. **(b)** "Simulated gambling device" does not include any pari-mutuel totalisator equipment that is used for pari-mutuel wagering on live or simulcast racing events and that has been approved by the director of the division of racing events for entities authorized and licensed under article 32 of title 44 of the Colorado Revised Statutes.

Slot machine means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner; except that the term does not include a crane game or vintage slot machine models introduced on the market in 1984, does not contain

component parts manufactured in 1984 or thereafter and is not used for gambling purposes or limited gaming purposes.

Specified anatomical areas means as used herein means and includes any of the following:

- (A) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

Specified sexual activities means includes any of the following:

- (A) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (C) Masturbation, actual or simulated;
- (D) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (E) Excretory functions as part of or in connection with any of the activities set forth in Subsections (A) through (D) of this definition.

4-14-10 Adult Gaming Arcades

(A) Legislative Declaration. The Montrose City Council hereby adopts and incorporates the above recital clauses herein by reference in this Ordinance, finds the recitals as true and correct, and to constitute the legislative findings of the City in support of the following ordaining sections. It is the purpose and intent of this Ordinance to promote the health, safety, morals, and general welfare of the residents and businesses of the City by affording time for City staff to conduct analysis of any impact from Adult Gaming Arcades, whether such uses are legal and, if so, can be appropriately sited within the city limits of the City of Montrose with appropriate regulation, or whether such uses are or should be prohibited.

(B) Imposition of Moratorium. A moratorium period is hereby declared on all new establishments not in existence or the relocation of existing establishments as of [Date] constituting Adult Gaming Arcades, Slot Machine, Gambling Device and Simulated Gambling Device from the effective date of

this Ordinance, [Date], for the period of one hundred eighty (180) days to [Date] (inclusive), or until further action of the City Council ending or modifying this moratorium, whichever occurs first. Such further action shall be taken by resolution by the City Council accordingly. No applications pertaining to sales and use tax, amendments to the official zoning map, site development, liquor license, sign permit or building permit, any development permit, or renewal or transfer of any of the aforementioned shall be accepted for review by the City of Montrose for the moratorium period as defined herein.

(C) Conditions of Operation for Adult Gaming Arcades.

- (1) It shall be unlawful for any person under twenty-one years of age to be upon the premises of an Adult Gaming Arcade, to sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted, or to participate, play, be allowed to play, place wagers, or collect cash or monetary winnings, whether personally or through an agent, in or from any adult gaming arcade, limited gaming game, or slot machine.
- (2) No person under the age of twenty-one years shall be employed as an Adult Gaming Arcade employee, conduct or assist in conducting any limited gaming activity, and no such person under the age of twenty-one years shall manage or handle any of the proceeds.
- (3) It shall be unlawful for the owner, operator, manager or any employee of an Adult Gaming Arcade to allow anyone under the age of twenty-one years, except for such delivery persons as may be permitted by law, to be upon the premises.
- (4) In addition to compliance with all other sign regulations of this Code, an Adult Gaming Arcade shall display a sign, clearly visible and legible at the entrance to the business, which provides the hours of operation and gives notice of the adult nature of the adult gaming arcade. The sign shall be permanently displayed in a conspicuous manner and advise in bold-faced, legible type that the premises is off limits to those under the age of 21 years of age.
- (5) Any violation of this section, including Section 4-14-10(B), may be punished as an unlawful act subject to the penalty in Section 1-2-3 of the Official Code of the City of Montrose.

(D) Repeal. This section (4-14-10) is repealed, effective [Date].

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the ____ day of _____, 2021, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2021.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this _____ day of _____, 2021.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, DECLARING ZONING IN PROGRESS AND ENACTING A TEMPORARY MORATORIUM TO PROHIBIT THE FILING, ACCEPTANCE, SALES TAX LICENSURE, OR ANY OTHER OFFICIAL ACTION FOR THE ESTABLISHMENT OF ANY NEW OR RELOCATION OF EXISTING ADULT GAMING ARCADE USES WITHIN THE CITY LIMITS OF THE CITY OF MONTROSE; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE AT THE EARLIEST OF THE CITY'S ADOPTION OF AN UPDATE TO TITLE 4 CHAPTER 4, ZONING REGULATIONS OF THE CITY OF MONTROSE, TITLE 4, CHAPTER 14 ADULT BUSINESS REGULATIONS, AND/OR TITLE 5 BUSINESS REGULATIONS OF THE CITY OF MONTROSE OR THE EXPIRATION OF ONE HUNDRED EIGHTY (180) DAYS FROM DATE OF PASSAGE OF THIS ORDINANCE; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT, AND PURPOSE; PROVIDING FOR A DEFINITION OF THE USE OF ADULT GAMING ARCADES FOR THE PURPOSES OF THIS ORDINANCE; AND PROVIDING REPEALING CLAUSES.

WHEREAS, the City of Montrose is a home rule municipal corporation operating under adopted charter pursuant to § 6 of Article XX of the Colorado Constitution; and

WHEREAS, Article XVIII, §§2 and 9 of the Colorado Constitution regulates unlicensed gaming, and authorizes limited gaming only within the commercial districts in municipal limits of Central, Black Hawk and Cripple Creek in the State of Colorado; and

WHEREAS, opinions from the Colorado Office of the Attorney General have evaluated a set of facts involving attempted expansions of gambling via electronic means such as online gambling and on-site server-based sweepstakes cafes using encoded cards with a cash value and have determined said uses to be contrary to Colorado state law in the absence of a state constitutional amendment expanding the definition of limited gaming in Colo. Const. Art. XVIII, §9: CO AG Opinion No. 13-02 (Dec 13, 2013); CO AG Opinions 14-03 (Oct. 9, 2014); and

WHEREAS, the Colorado Supreme Court has recognized the authority of a home rule municipality to enact regulation of gambling as a matter of local concern, in *Woolverton v City and County of Denver*, 361 P.2d 982, 988-990 (Colo. 1961), *overruled on other grounds by, Vela v People*, 484 P.2d 1204 (Colo. 1971); and

WHEREAS, the City of Montrose has exercised this authority in its history to deem it unlawful and to set criminal penalties for “any person to play at any game whatsoever for any sum of money or other property of value, or to make any bet or wager for any sum

of money or other property of value upon the result of such game[,]" and to prohibit allowing minors to engage in same, (Montrose City Ord. 122, passed September 11, 1918); and

WHEREAS, the City's Business and Zoning Regulations are a matter of local control and purposed to promote the public health, safety, and welfare; and

WHEREAS, the City's Zoning and Business Regulations are updated from time to time; and

WHEREAS, there are now existing within the jurisdiction boundaries of the City of Montrose establishments that are engaged in the business of providing access to and the use of video gaming machines that accept money and/or tokens from patrons and pay monetary prizes that may fit the legal definition of slot machine, gambling device, and/or simulated gambling device prohibited under Colorado state law; and

WHEREAS, the businesses engaged in this activity referred herein as Adult Gaming Arcades sited within the jurisdictional boundaries of the City of Montrose have had secondary, negative impact upon neighboring business, the community and the public in the form of increased crime, to wit: illegal drug usage; illegal drug distribution; public intoxication; violent crime and increased calls for service at and around their locations from the Montrose Police Department; and

WHEREAS, a temporary moratorium on all new establishments not in existence or the relocation of existing establishments as of the effective date of this Ordinance, and on the acceptance of applications for, the process of, and the issuance of any permit, site plan approval, sales tax licensure or any other official action of the City of Montrose permitting or having the effect of permitting Adult Gaming Arcades will allow time for the City Attorney's Office, Montrose Police Department, City Manager's Office, and/or other relevant legal authorities to conclude a review of existing establishment(s) and will help prevent prospective business operators from opening new businesses within the city limits that could be determined to be illegal simulated gambling establishments or otherwise prohibited; and

WHEREAS, this moratorium or zoning in progress ordinance is being enacted to provide the City staff with sufficient time to evaluate the use referred to herein as Adult Gaming Arcades; and

WHEREAS, after evaluation of the uses referred to hereinabove, City staff may deem it appropriate to develop land development regulations and business licensing regulations to define the use of 'Adult Gaming Arcade,' to regulate licensure and hours of permissible operation by such uses, and to specify particular zoning districts where said uses may operate either as uses by right or as conditional uses or as non-conforming,

prohibited uses under the code; and

WHEREAS, the City Council of the City of Montrose determines that it is necessary to impose a temporary, one-hundred-eighty-day (180) moratorium commencing on the date of passage of this ordinance to allow sufficient time for the conclusion of review; and

WHEREAS, the City Council of the City of Montrose has determined that the changes within this ordinance to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

The following Section is added to Title 4, Chapter 14 Adult Business Regulations, of the Official Code of the City of Montrose, Colorado, including an amendment to Section § 4-14-1, and a new Section § 4-14-10. Title 4, Chapter 14, Section 10 is hereby added (§ 4-14-10), to read in full as follows:

4-14-1 Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult arcade means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store, or adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe specified sexual activities or specified anatomical areas; or
- (B) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

- (A) Persons who appear nude or in a state of nudity or seminudity; or
- (B) Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Gaming Arcade means any business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person or by that person's partners, affiliates, subsidiaries, agents, or contractors which features (i) slot machine(s), (ii) gambling device(s), (iii) simulated gambling device(s), or (iv) any mechanical, electrical, video, electronic, or other device, contrivance or machine which after insertion or conveyance of a coin, debit card, credit card, cash, token or similar object or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive monetary compensation and/or redeemable game credits, or any other thing of value. This definition expressly includes 'fish game' 'fish game table' 'fish game gambling table' however denominated that consists of a tabletop electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, redeemable game credits or any other thing of value for successful play, whether the redeemable payout is made automatically from the machine or from an employee of the business location. This definition expressly excludes any business location which features bona fide amusement devices that pay nothing of value, cannot be adjusted to pay anything of value, provide only unredeemable free games, or provide only tickets redeemable for nonmonetary prizes consisting of toys or novelties of nominal value; crane games; coin-operated music machines; or any bona fide amusement device authorized within restaurants by Colorado Revised Statute § 44-3-103(47).

Adult motel means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

Adult motion picture theater means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear

in a state of nudity or live performances which are characterized by an emphasis on exposure of specified anatomical areas or by specified sexual activities.

Commercial establishment means an establishment that may have other principal business purposes that do not involve the depicting or describing specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

Crane Game means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

Employee means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

Establishment of a sexually oriented business means and includes any of the following:

- (A) The opening or commencement of any such business as a new business;
- (B) The conversion of an existing business into a sexually oriented business;
- (C) The addition of a different sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of a sexually oriented business.

Foyer means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

Gambling Device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game.

Manager means an operator, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Nudity or state of nudity:

- (A) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- (B) A state of dress which fails, opaquely and fully, to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Operator means includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business.

Peep booth means a room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of specified anatomical areas or specified sexual activities.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

Principal business purpose means any establishment, having as a substantial or significant portion of its stock in trade the items listed in Subsections (A) and (B) of the definition of adult bookstore, adult novelty store, or adult video store in this Section and having on the premises at least 30 percent of the establishment's display space occupied by the display of the items described therein.

Principal owner means any person owning, directly or beneficially:

- (A) Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or
- (B) In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

Public park means an area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult

theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes.

Seminude or seminudity means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

Simulated Gambling Device means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in Colorado Revised Statute § 44-3-103 (47), that pay nothing of value and cannot be adjusted to pay anything of value. "Simulated gambling device" includes: (I) A video poker game or any other kind of video card game; (II) A video bingo game; (III) A video craps game; (IV) A video keno game; (V) A video lotto game; (VI) A video roulette game; (VII) A pot-of-gold; (VIII) An eight-liner; (IX) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols; (X) An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine; (XI) A slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution; and (XII) A device that functions as, or simulates the play of, a slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution. (b) "Simulated gambling device" does not include any pari-mutuel totalisator equipment that is used for pari-mutuel wagering on live or simulcast racing events and that has been approved by the director of the division of racing events for entities authorized and licensed under article 32 of title 44 of the Colorado Revised Statutes.

Slot machine means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner; except that the term does not include a crane game or vintage slot machine models introduced on the market in 1984, does not contain

component parts manufactured in 1984 or thereafter and is not used for gambling purposes or limited gaming purposes.

Specified anatomical areas means as used herein means and includes any of the following:

- (A) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

Specified sexual activities means includes any of the following:

- (A) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (C) Masturbation, actual or simulated;
- (D) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (E) Excretory functions as part of or in connection with any of the activities set forth in Subsections (A) through (D) of this definition.

4-14-10 Adult Gaming Arcades

(A) Legislative Declaration. The Montrose City Council hereby adopts and incorporates the above recital clauses herein by reference in this Ordinance, finds the recitals as true and correct, and to constitute the legislative findings of the City in support of the following ordaining sections. It is the purpose and intent of this Ordinance to promote the health, safety, morals, and general welfare of the residents and businesses of the City by affording time for City staff to conduct analysis of any impact from Adult Gaming Arcades, whether such uses are legal and, if so, can be appropriately sited within the city limits of the City of Montrose with appropriate regulation, or whether such uses are or should be prohibited.

(B) Imposition of Moratorium. A moratorium period is hereby declared on all new establishments not in existence or the relocation of existing establishments as of _____ constituting Adult Gaming Arcades, Slot Machine, Gambling Device and Simulated Gambling Device from the

effective date of this Ordinance, _____, for the period of one hundred eighty (180) days to _____ (inclusive), or until further action of the City Council ending or modifying this moratorium, whichever occurs first. Such further action shall be taken by resolution by the City Council accordingly. No applications pertaining to sales and use tax, amendments to the official zoning map, site development, liquor license, sign permit or building permit, any development permit, or renewal or transfer of any of the aforementioned shall be accepted for review by the City of Montrose for the moratorium period as defined herein.

(C) Conditions of Operation for Adult Gaming Arcades.

- (1)** It shall be unlawful for any person under twenty-one years of age to be upon the premises of an Adult Gaming Arcade, to sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted, or to participate, play, be allowed to play, place wagers, or collect cash or monetary winnings, whether personally or through an agent, in or from any adult gaming arcade, limited gaming game, or slot machine.
- (2)** No person under the age of twenty-one years shall be employed as an Adult Gaming Arcade employee, conduct or assist in conducting any limited gaming activity, and no such person under the age of twenty-one years shall manage or handle any of the proceeds.
- (3)** It shall be unlawful for the owner, operator, manager or any employee of an Adult Gaming Arcade to allow anyone under the age of twenty-one years, except for such delivery persons as may be permitted by law, to be upon the premises.
- (4)** In addition to compliance with all other sign regulations of this Code, an Adult Gaming Arcade shall display a sign, clearly visible and legible at the entrance to the business, which provides the hours of operation and gives notice of the adult nature of the adult gaming arcade. The sign shall be permanently displayed in a conspicuous manner and advise in bold-faced, legible type that the premises is off limits to those under the age of 21 years of age.
- (5)** Any violation of this section, including Section 4-14-10(B), may be punished as an unlawful act subject to the penalty in Section 1-2-3 of the Official Code of the City of Montrose.

(D) Repeal. This section (4-14-10) is repealed, effective _____.

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the ____ day of _____, 2021, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2021.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this _____ day of _____, 2021.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE

Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: September 20, 2021
RE: ANX21-0090 Grace Community Church Addition II
ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: Zoning Code Excerpt

City Council Consideration:

City Council is considering this annexation application and the associated zoning, which is done by considering approval of an annexation ordinance and a zoning ordinance at a first and second reading. Council will consider all of the information in this memo in making a decision.

Proposed schedule:

September 20:	Council Work Session Overview
October 5:	Council Resolution to set a hearing date
October 27:	Planning Commission zoning hearing
November 16:	City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance
December 7:	2nd reading of annexation and zoning ordinances

Application Background:

The Grace Community Church Addition II is a proposed annexation approximately 3.48 acres in size. The parcel is located east of S. Townsend Avenue, west of Woodgate Road, north of Otter Road, and south of Ogden Road. It is within the City's Urban Growth Boundary, the City of Montrose Water Service Area, and the City of Montrose Sewer Service Area. Annexation of this property will allow for future development and expansion of church services offered to the community. An Annexation Agreement will be required.



Proposed Zoning: “R-3” Medium Density District

Applicant: International Church of the Foursquare Church, DBA Grace Community Church

Staff Analysis:

1. The City-County IGA gives the City the option to annex properties within the IGA. The area is urbanizing and more than 1/6 of the perimeter is contiguous to the city limits. These factors support annexation.
2. An annexation agreement is required as a condition of this annexation.
3. Zoning Regulations
 - a. Municipal Code, Section, 4-4-29(B), Zoning of Additions. “The Planning Commission shall recommend to the Council a zoning district designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 4-4-31 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter. *The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare* (emphasis added).”
 - b. Municipal Code, Section 4-4-7(A) Intent: The “R-3” Medium Density District is intended to provide an area which is suitable for single-family homes and duplexes. The district provides for other uses which are compatible with such uses. Places of worship are a use by right in this zoning district.
 - c. The proposed zoning is compatible with existing zoning and general conditions in the area. The property is adjacent to properties that are zoned “R-3” Medium Density District, “R-2” Low Density District, and “R-1A” Large Estate District.
4. The Comprehensive Plan Future Land Use Map designates the area of the Grace Community Church Addition II as Residential Mixed Density Low. This district provides primarily for single-family homes, as well as small amounts of attached residential dwelling units (such as duplexes and even small groups of townhomes). This low-density residential land use is intended to preserve the traditional building pattern of the existing residential development in Montrose. It will continue to be the predominant density in the City.
5. The property is located within Growth Area 1. According to the Comprehensive Plan, Growth Area 1 represents the most cost-efficient areas for the city to grow and comprises platted but unbuilt lots, annexed but un-platted land, and un-annexed small enclaves.
6. The “R-3” zoning does not appear to be adverse to the public health, safety and welfare.

Staff Recommendation:

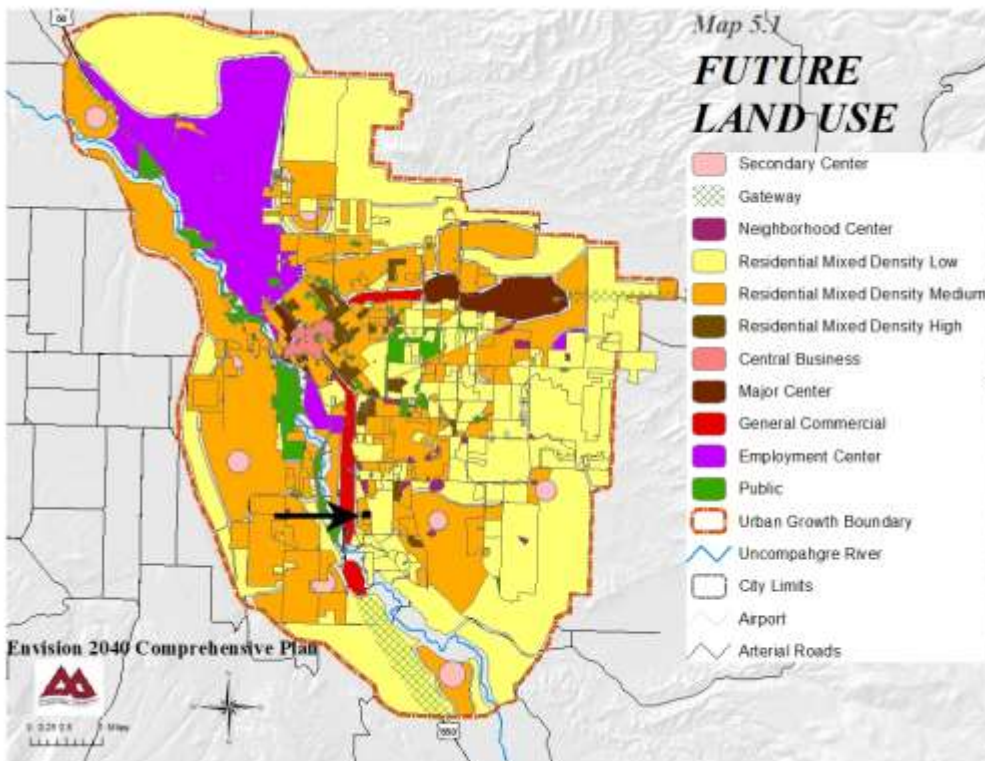
Staff recommends approval of the annexation and “R-3” Medium District.



EXHIBIT A: Maps
Vicinity Map

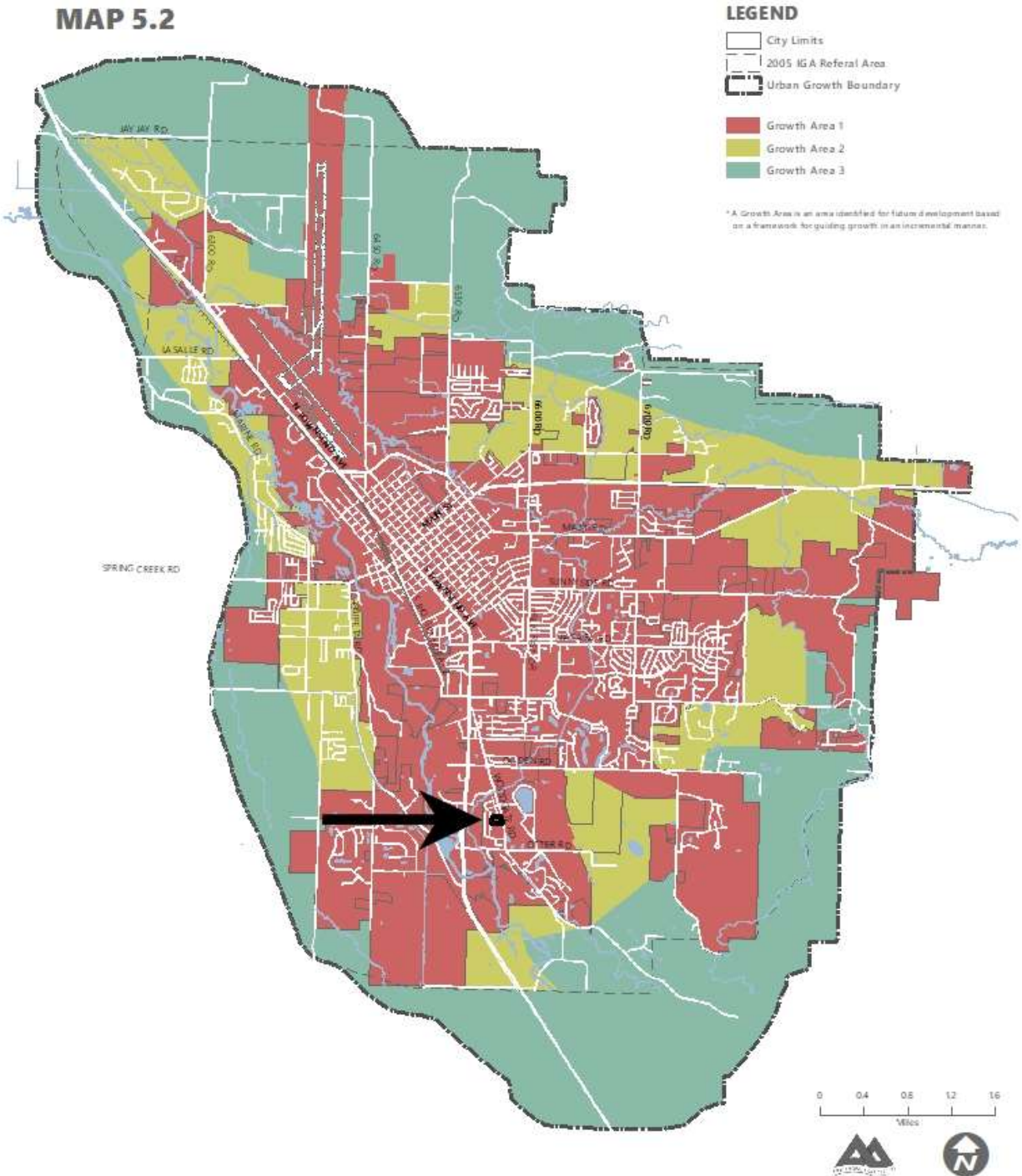


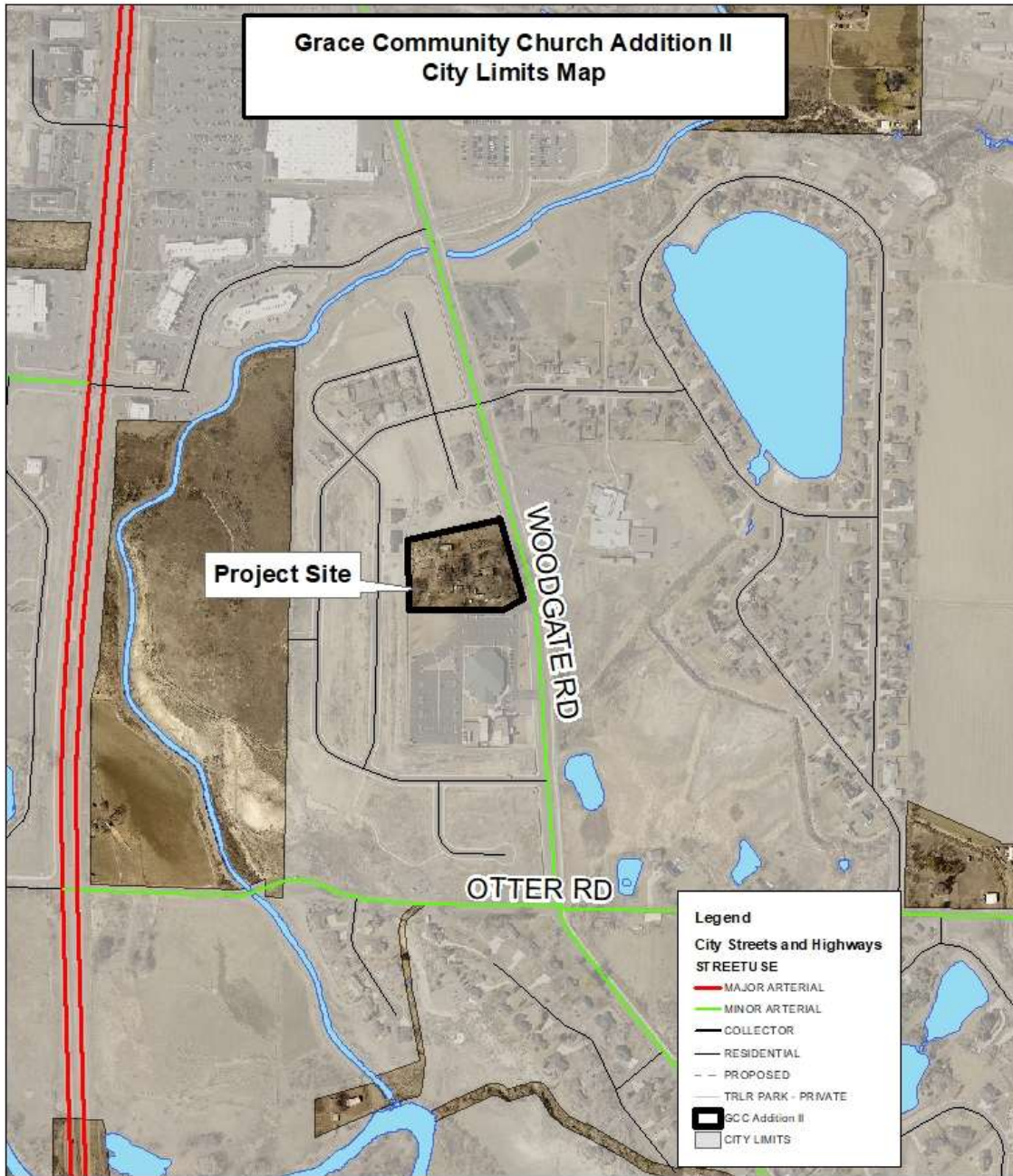
Comprehensive Plan Future Land Use Map



GROWTH AREAS*

MAP 5.2



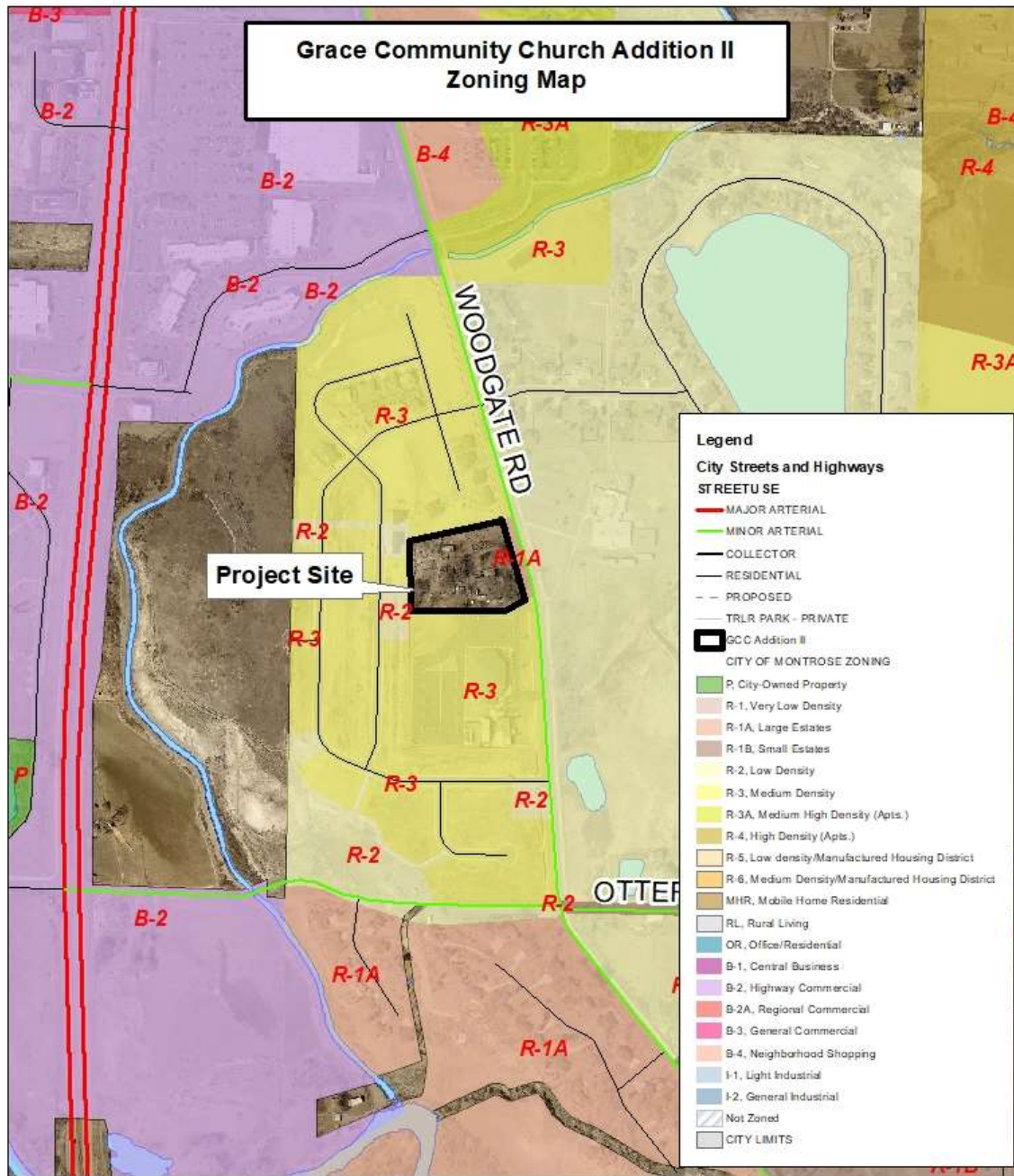


0 0.075 0.15 0.3 0.45 Miles



Map created 09/13/2021





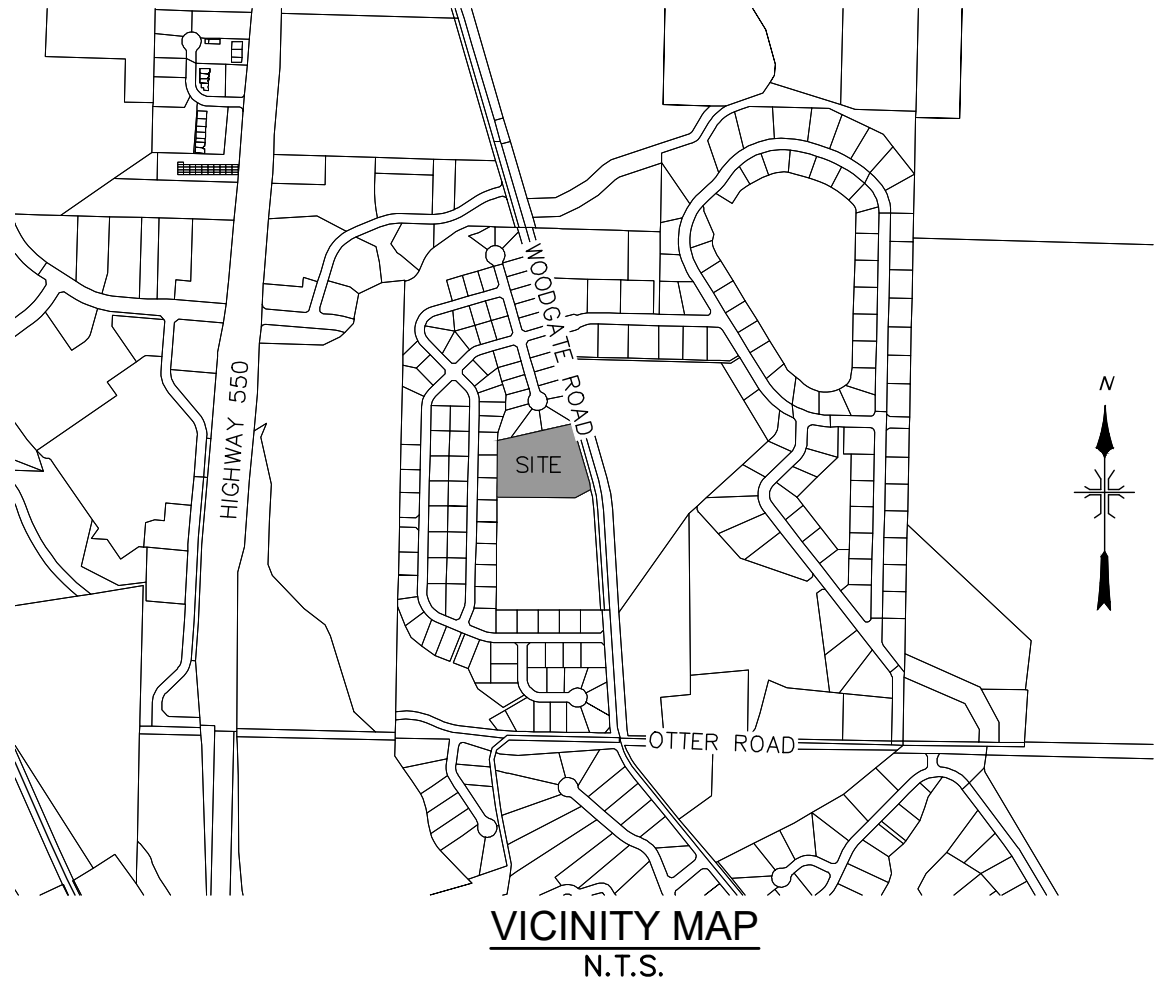
0 0.075 0.15 0.3 0.45 Miles



Map created 09/13/2021



GRACE COMMUNITY CHURCH ADDITION II
SITUATED IN SECTION 4, TOWNSHIP 48 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN
COUNTY OF MONTROSE, STATE OF COLORADO



LEGEND

- //// CITY LIMITS
—— PROPERTY BOUNDARY / LIMITS OF ANNEXATION

CITY LIMITS

TOTAL PERIMETER = 1564.62'
PERIMETER CONTIGUOUS TO CITY LIMITS = 1564.62'

NOTE:

THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY. IT IS A COMPILATION OF EXISTING RECORDS FOR THE PURPOSE OF ANNEXATION.

ANNEXATION DESCRIPTION

Lot 1 of Growing Grace Replat, according to the plat map recorded May 3, 2004 at Reception No. 719363, County of Montrose, State of Colorado, together with the following portion of Woodgate Road described as being a strip of land situated in Section 4, Township 48 North, Range 9 West, N.M.F.M. and being further described as beginning at the Northeast corner of said Lot 1 of Growing Grace Replat;
Thence N77°31'54"E 10.02 feet to the West edge of Woodgate Addition;
Thence along the West edge of Woodgate Addition the following two courses S15°56'29"E 320.56 feet;
S12°05'21"E 32.47 feet;
Thence S63°01'49"W 10.35 feet to the Southeast corner of said Lot 1;
Thence the following two courses along the East boundary of said Lot 1 N12°05'21"W 34.79 feet;
N15°56'29"W 320.83 feet to the Point of Beginning.

SURVEYOR'S CERTIFICATE

I, Frederick A. Ballard, a Registered Land Surveyor in the State of Colorado, do hereby certify GRACE COMMUNITY CHURCH ADDITION II Annexation Map was prepared under my direct supervision.

PRELIMINARY

Frederick A. Ballard, P.L.S.
Registration No. 37690

MAYOR'S CERTIFICATE

This is to certify that the City of Montrose, a municipal corporation in the County of Montrose, State of Colorado has by its Ordinance No. _____ adopted on the _____ day of _____, 20____, annexed the property hereon to the City of Montrose.

Mayor

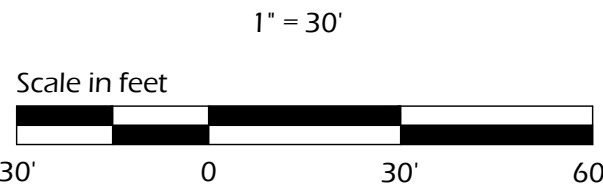
Attest:
City Clerk

CLERK AND RECORDER'S CERTIFICATE

This map was filed for record in the office of the Clerk and Recorder of Montrose County, Colorado, at the time of _____, on the _____ day of _____, 20____ under Reception No. _____.

Clerk and Recorder
Montrose County, Colorado

Deputy



NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

DMC DEL-MONT CONSULTANTS, INC. ENGINEERING & SURVEYING 125 Colorado Ave. • Montrose, CO 81401 • (970) 245-2251 • (970) 245-2242 FAX www.del-mont.com • service@del-mont.com			
FIELD BOOK:		DATE:	2021-08-12
DRAWN BY:		DCC	
SHEET:		FILE:	21087V_ANNEX
JOB NO.:		21087	
1 of 1			
TITLE:		GRACE COMMUNITY CHURCH ADDITION II	
CLIENT:		KEN LENTZ	
ADDRESS & PHONE:		16731 WOODGATE RD MONTROSE, CO 81401 303-917-5309	
TYPE:		ANNEX	

EXHIBIT B: Zoning Code Excerpt

Sec. 4-4-7. "R-3" Medium Density District.

(A) *Intent.* The "R-3" Medium Density District is intended to provide an area which is suitable for single-family homes and duplexes. The district provides for other uses which are compatible with such uses.

(B) *Uses by Right.*

- (1) Single-family homes and duplexes.
- (2) Public utility service facilities.
- (3) Government buildings and facilities.
- (4) Parks and recreation facilities owned or operated by a homeowner association.
- (5) Places of worship.
- (6) Accessory uses.

Childcare facilities. A childcare facility shall be considered an accessory use to a residence in all districts, provided no more than eight children under 13 years of age are present on the premises at any one time, including children of the family living in the residence; a childcare facility shall not be considered an accessory use to a residence when a greater number of children is present on the premises at any one time. The facility must comply with all appropriate State Statutes and regulations.

- (7) Short-term rentals.

(C) *Conditional Uses.*

- (1) Childcare facilities. A childcare facility shall be a conditional use in all districts if more than eight but less than 16 children under 13 years of age are present on the premises at any one time, including children of the family living in the residence, in accordance with State Statutes and regulations.
- (2) Skilled nursing and assisted living facilities.
- (3) Multiple-family residences.
- (4) Bed and breakfast operations operated solely by the residents of a lot of at least 6,250 square feet providing no more than two bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters.
- (5) Schools.

(Ord. No. 2472 , § 4-4-7, 5-7-2019)



RESOLUTION 2021-20

A RESOLUTION AUTHORIZING FILING OF THE COLORADO DEPARTMENT OF TRANSPORTATION REVITALIZING MAIN STREETS: SMALL MULTIMODAL & ECONOMIC RESILIENCY PROJECT GRANT PROGRAM APPLICATION

WHEREAS, the City of Montrose recognizes the Pocket Park as a valuable resource in the heart of historic downtown Montrose that both locals and tourists alike can enjoy.

WHEREAS, the City of Montrose envisions the Pocket Park as a community gathering space and a cultural events space that will allow for programming opportunities like Acoustic Tuesdays, movies in the park, and other community events.

WHEREAS, the Colorado Department of Transportation Revitalizing Main Streets: Small Multimodal & Economic Resiliency Project grant program provides grant funding to local Colorado communities and organizations to support multimodal mobility and economic recovery projects that improve safety and transform urban spaces.

WHEREAS, the Pocket Park has been underutilized due to COVID-19 and has been identified as an area for improvement that will benefit from revitalization including, but not limited to pedestrian and bicycle amenities, streetscaping, and public artwork.

WHEREAS, the City of Montrose requests the Revitalizing Main Streets: Small Multimodal & Economic Resiliency Project grant, administered by Colorado Department of Transportation, in an amount up to \$150,000 for the aforementioned project.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE THAT:

- Section 1: The City Council of the City of Montrose authorizes the filing of the grant application with the Colorado Department of Transportation.
- Section 2: The City of Montrose agrees to provide a matching contribution of up to \$15,000, equal to 10% of the grant request, for the project.
- Section 3: Revitalizing Main Streets Small Multimodal & Economic Resiliency funds are provided on a reimbursement basis.
- Section 4: If the grant is awarded, the City Council hereby authorizes the City Manager to execute the grant contract with the Colorado Department of Transportation and city staff to act on behalf of the grant agreement.
- Section 5: This resolution to be in full force and effect from and after its passage and approval.

ADOPTED this 20th day of September, 2021, by the Montrose City Council.

CITY OF MONTROSE, COLORADO

BY: _____
Douglas Glaspell, Mayor

ATTEST

Lisa DelPiccolo, City Clerk