REGULAR CITY COUNCIL MEETING AGENDA
Tuesday, May 2, 2023 6:00 PM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

The Montrose City Council is pleased to have residents of the community take time to attend City Council meetings. We encourage your attendance and participation. Individuals wishing to be heard during public hearing proceedings are encouraged to be prepared and will generally be limited to three minutes to allow everyone the opportunity to be heard. Additional written comments are welcome and will be received at any time. The 11:00 p.m. rule will be enforced in accordance with City of Montrose Regulations (Sec. 7-15-2).

Public participation for this meeting will be in person in the City Council Chambers. The meeting can be viewed via livestream a https://www.cityofmontrose.org/759/Live-Meetings-Viewer and recordings of the meetings can be viewed at https://www.youtube.com/user/MontroseCityGov.

Hearing assistance devices are available for public use. Please let us know if you need accommodation. The City also offers interpretation for Spanish speakers. In order to allow time to book this resource, please email planningmail@ci.montrose.co.us at least three days before the meeting.

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1) City Council meeting called to order by Mayor Barbara Bynum

2) The Pledge of Allegiance

3) Roll call by the City Clerk

4) Changes to the agenda including additions and deletions

5) CALL FOR PUBLIC COMMENT FOR NON-AGENDA ITEMS

The "Call for Public Comment" agenda item is a time when concerned members of the community may publicly voice their concerns and discuss items of interest. Please note that no formal action will be taken on the matters raised during this time.Comments made during this time should be addressed to the Council and pertain to matters of at least general importance to the City and its operations. Please be aware that neither City Council nor City staff are expected to respond or engage in discussion or debate. Personal attacks and disagreements, personnel and employment matters, the use of profanity or ethnic, racial or gender-oriented slurs are prohibited, as is any "disorderly conduct" which violates state or local law and shall not be permitted.

**Please note that the times listed are estimates only. Actual times may vary depending upon discussion and public comment received.*

6) APPROVAL OF MINUTES (5 minutes)

City Council consideration of the minutes of the April 18, 2023 regular City Council meeting. *Staff: Deputy City Clerk Briceida Ortega*

Action: Consider making a motion to approve the minutes of the April 18, 2023 regular City Council meeting as presented.

7) ORDINANCE 2621 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2621 on second reading, an Ordinance of the City of Montrose, Colorado, authorizing the loaning of money in conjunction with the sale of real property addressed at 433 South First Street, Montrose, Colorado, pursuant to Article II Section 5 of the Charter of the City of Montrose. *Staff: Assistant City Attorney Chris Dowsey*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2621 on second reading as presented.

8) ORDINANCE 2622 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2622 on second reading, an Ordinance of the City of Montrose, Colorado, granting and authorizing the conveyance of an interest in City-owned real estate pursuant to § 1-9-2 of the Official Code of the City of Montrose (S. Third Street right of way). *Staff: City Engineer Scott Murphy, Planning Manager Jace Hochwalt, and City Attorney Ben Morris*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2622 on second reading as presented.

9) ORDINANCE 2623 -SECOND READING (10 minutes)

City Council consideration of Ordinance 2623 on second reading, an Ordinance of the City of Montrose, Colorado for the annexation of the Sunset Village Addition. *Staff: Planning Manager Jace Hochwalt*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2623 on second reading as presented.

10) ORDINANCE 2624 - SECOND READING (5 minutes)

City Council consideration of Ordinance 2624 on second reading, an Ordinance of the City of Montrose, Colorado, providing for the zoning of the Sunset Village Addition as an "R-3A," Medium High Density District. *Staff: Planning Manager Jace Hochwalt*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2624 on second reading as presented.

11) ORDINANCE 2625 - FIRST READING (10 minutes)

City Council consideration of Ordinance 2625 on first reading, an Ordinance of the City of Montrose, Colorado, clarifying Article 1, Section 7, of the Charter of the City of Montrose, regarding qualifications for candidates to the Office of the City of Montrose Councilor. *Staff: Assistant City Attorney Matt Magliaro*

Action: Hold a hearing. Consider making a motion to pass Ordinance 2625 on first reading as presented.

12) ORDINANCE 2626 - FIRST READING (15 minutes)

City Council consideration of Ordinance 2626 on first reading, an Ordinance of the City of Montrose, Colorado, amending the Montrose Municipal Code by repealing provisions relating to the Planning Commission and land development, repealing certain chapters of the Montrose Regulations Manual relating to land development and adopting a new Title XI - Land Development Regulations for the City. *Staff: Planning Manager Jace Hochwalt*

Action: Accept public comment. Consider making a motion to pass Ordinance 2626 on first reading as presented.

13) THE BRIDGES AT BLACK CANYON AMENDED PRELIMINARY PLAT (10 minutes)

City Council consideration of The Bridges at Black Canyon Amended Preliminary Plat. *Staff: Planner II William Reis*

Action: Accept public comment. Consider making a motion to approve The Bridges at Black Canyon Amended Preliminary Plat expressly conditioned upon City staff ensuring that all policies, regulations, ordinance and Municipal Code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.

14) BLOCK 93 SEWER REPLACEMENT CONSTRUCTION CONTRACT (15 minutes)

City Council consideration of the award of a construction contract with Skip Huston Construction in the amount of $468,104.82 for completion of the Block 93 Sewer Replacement Project. *Staff: City Engineer Scott Murphy*

Action: Accept public comment. Consider making a motion to approve a construction contract with Skip Huston Construction in the amount of $468,104.82 for completion of the Block 93 Sewer Replacement Project.

15) STREET LIGHT UPGRADE PROJECT AND DMEA MOU (15 minutes)

City Council consideration of the authorization of a Memorandum of Understanding between the City of Montrose and Delta-Montrose Electric Association for a Streetlight Upgrade Project in the amount of $110,000.00 *Staff: Public Works Director Jim Scheid*

Action: Accept public comment. Consider making a motion to authorize a Memorandum of Understanding between the City of Montrose and Delta-Montrose Electric Association for a Streetlight Upgrade Project in the amount of $110,000.00.

16) MONTROSE PUBLIC SAFETY COMPLEX SOLAR PANELS ADD ALTERNATE AWARD (15 minutes)

City Council consideration of a contract with Atlasta Solar for the installation of a solar panel system at the Montrose Public Safety Complex in the amount of $205,506.00. *Staff: Public Works Director Jim Scheid*

Action: Accept public comment. Consider making a motion to approve a contract with Atlasta Solar for the installation of a solar panel system at the Montrose Public Safety Complex in the amount of $205,506.00.

17) SANITARY SEWER RATE STUDY (10 minutes)

City Council consideration of a contract with Carollo Engineers to perform a sanitary sewer cost of service analysis for the not to exceed amount of $70,000.00. *Staff: Utilities Manager David Bries*

Action: Accept public comment. Consider making a motion to approve a contract with Carollo Engineers to perform a sanitary sewer cost of service analysis for the not to exceed amount of $70,000.00.

18) STAFF REPORTS

19) YOUTH CITY COUNCIL COMMENTS

20) CITY COUNCIL COMMENTS

21) MOTION TO ADJOURN

A regular meeting of the Montrose City Council was held on Tuesday, April 18, 2023, at 6:00 p.m. in the City Council Chambers of the Elks Civic Building. Said meeting was posted in accordance with the Sunshine Law.

PRESENT: Dave Frank, Barbara Bynum, Doug Glaspell, J. David Reed, Ed Ulibarri, Bill Bell, Ann Morgenthaler, Ben Morris, Chris Dowsey, Lisa DelPiccolo, Briceida Ortega, Greg Story, William Woody, Shani Wittenberg, Katie Schroer, Tim Cox, Scott Murphy, Mark Tofflemoyer, Jim Scheid, Dan Payne, Jace Hochwalt, David Bries, William Reis

GUESTS: Steve Metheny, Marty Guy, Deborah Reed, Rhiannon Bergman, Ashley Dennis, David Schieldt

CALL TO ORDER

Mayor Dave Frank called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

CHANGES TO THE AGENDA

No changes were made to the agenda.

ANNUAL MAYORS CHALLENGE FOR WATER CONSERVATION

Mayor Dave Frank encouraged the citizens of the City of Montrose to participate in the annual Mayors Challenge for Water Conservation. The Challenge will be conducted throughout the month of April to inspire residents to use water more efficiently, reduce pollution, and save energy. The City of Montrose has participated annually since 2012 and finished fourth in the nation in 2022 among cities of comparable size.

EARTH WEEK PROCLAMATION

Mayor Dave Frank and Youth City Council Mayor Grace Hotsenpiller proclaimed the week of April 21 through April 28, 2023, as Earth Week in the City of Montrose. Ms. Hotsenpiller presented the proclamation to Montrose Pavilion and Community Events Manager Katie Schroer. Ms. Schroer provided an overview of Earth Week festivities and encouraged community members to participate.

ARBOR DAY PROCLAMATION

Mayor Pro Tem Barbara Bynum and the Montrose City Council proclaimed April 28, 2023, as Arbor Day in the City of Montrose. Ms. Bynum presented the proclamation to Parks Superintendent Dan Payne.

MUNICIPAL CLERKS WEEK PROCLAMATION

Mayor Dave Frank and the Montrose City Council proclaimed the week of April 30 through May 6, 2023, as Municipal Clerks Week in the City of Montrose. Mayor Frank presented the proclamation to City Clerk Lisa DelPiccolo, Deputy City Clerk Briceida Ortega, and Records Clerk Mark Tofflemoyer.

CALL FOR PUBLIC COMMENT

Stewart West, newly named superintendent of Black Canyon of the Gunnison National Park and Curecanti National Recreation Area, introduced himself to City Council.

Dianna Reuter spoke regarding water quality concerns related to the Uncompahgre River and the Montrose Watersports Park. Ms. Reuter also spoke in favor of requiring fences on private property to be set back two feet from sidewalks.

APPROVAL OF MINUTES

City Council considered the minutes of the April 3, 2023, special City Council meeting and the April 4, 2023, regular City Council meeting.

A motion was made by Barbara Bynum, seconded by Doug Glaspell, to approve the minutes of the April 3, 2023, special City Council meeting and the April 4, 2023, regular City Council meeting as presented. David Reed abstained because he was not present at the April 4 City Council meeting. All others voted yes. Motion passed.

APPOINTMENT OF MAYOR AND MAYOR PRO TEM

Mayor Dave Frank presided over the selection of Mayor and Mayor Pro Tem for the 2023-2024 mayoral term.

A motion was made by Dave Frank to appoint Barbara Bynum as Mayor for the 2023-2024 mayoral term. No other nominations were made. Mayor Frank declared the motion passed by acclamation.

A motion was made by Barbara Bynum to appoint J. David Reed as Mayor Pro Tem for the 2023-2024 mayoral term. No other nominations were made. Ms. Bynum declared the motion passed by acclamation.

PRESENTATION TO OUTGOING MAYOR

Mayor Barbara Bynum acknowledged Dave Frank for his contributions as Mayor of the City of Montrose from April 2022 to April 2023. Mr. Frank was presented with the gavel he used during his term as mayor and with a plaque commemorating his service.

RESOLUTION 2023-06

City Council considered Resolution 2023-06, a Resolution of the City of Montrose in opposition to statewide land use and zoning preemptions in Senate Bill 23-213.

City Attorney Ben Morris reported that Senate Bill 23-213 is under consideration at the state level and would expand state control over land use decisions. Mr. Morris read a statement from the Colorado Municipal League (CML) which summarized the bill as a sweeping attempt to remove local control and Home Rule authority and expand state authority with top down zoning and land use standards.

Public comment was accepted. No comments were received.

A motion was made by Dave Frank, seconded by Doug Glaspell to adopt Resolution 2023-06 as presented. All voted yes. Motion passed.

ORDINANCE 2620 – SECOND READING

City Council considered Ordinance 2620 on second reading, an Ordinance of the City of Montrose authorizing the substitution of other City property for the City Hall building under a 2017 lease-purchase financing; and authorizing and approving documentation related thereto. A hearing was held.

Finance Director Shani Wittenberg and City Attorney Ben Morris reported no changes to Ordinance 2620 since it was passed on first reading at the April 4 City Council meeting.

Mayor Barbara Bynum opened the hearing.

Public comment was accepted. No comments were received.

Mayor Bynum closed the hearing.

A motion was made by Doug Glaspell, seconded by J. David Reed, to adopt Ordinance 2620 on second reading as presented. Ed Ulibarri voted no. All others voted yes. Motion passed.

ORDINANCE 2621 – FIRST READING

City Council considered Ordinance 2621 on first reading, an Ordinance of the City of Montrose, Colorado, authorizing the loaning of money in conjunction with the sale of real property addressed at 433 South First Street, Montrose, Colorado, pursuant to Article II Section 5 of the Charter of the City of Montrose. A hearing was held.

Assistant City Attorney Chris Dowsey reported that this Ordinance was reviewed at a previous work session and is related to the sale of the former City Hall building. Mr. Dowsey stated that the Ordinance authorizes a loan to Colorado Mesa University in accordance with the City Charter.

Mayor Barbara Bynum opened the hearing.

Public comment was accepted. No comments were received.

Mayor Bynum closed the hearing.

A motion was made by J. David Reed, seconded by Doug Glaspell, to pass Ordinance 2621 on first reading as presented. Ed Ulibarri voted no. All others voted yes. Motion passed.

SOUTH 3RD PLAZA CONSTRUCTION CONTRACT

City Council considered the approval of $699,527.58 in expenditures for construction of the South 3rd Plaza Project. This includes the award of a construction contract to Skip Huston Construction in the amount of $659,527.58 and a survey/engineering support contract to Del-Mont Consultants in the amount of $40,000.00.

City Engineer Scott Murphy reviewed the history of campus expansions and gave an overview of the plan to create a plaza near the Cascade Hall building.

Mr. Murphy reviewed the bid process and reported that one bid was received that exceeded the amount budgeted for the project. The elements of the project were redefined to remove decorative elements and focus on street parking, parking lot improvements, lighting, and core concrete work within the budgeted amount. Landscaping and other elements will be added later through grant funding and future partnerships. Mr. Murphy said that $700,000.00 was budgeted for the project with $500,000.00 provided by the City, and $200,000.00 contributed by CMU.

Mr. Murphy recommended approval of the contracts with Skip Huston Construction and Del-Mont Consultants.

Public comment was accepted. No comments were received.

A motion was made by Dave Frank, seconded by J. David Reed, to approve $699,527.58 in expenditures for construction of the South 3rd Plaza Project as presented. All voted yes. Motion passed.

ORDINANCE 2622 – FIRST READING

City Council considered Ordinance 2622 on first reading, an Ordinance of the City of Montrose, Colorado, granting and authorizing the conveyance of an interest in City-owned real estate pursuant to § 1-9-2 of the Official Code of the City of Montrose (S. Third Street right of way). A hearing was held.

City Engineer Scott Murphy reported that Ordinance 2622 redistributes the right of way following the vacation of the street. Mr. Murphy said that Colorado Mesa University and the Montrose Library will equally share the vacated right of way, and the Library intends to deed its portion to CMU. Existing utility easements will be preserved by the City and the Plaza will be maintained by CMU.

City attorney Ben Morris stated that the Library District has voted to deed the right of way to CMU.

Mayor Barbara Bynum opened the hearing.

Public comment was accepted. No comments were received.

Mayor Bynum closed the hearing.

A motion was made by Dave Frank, seconded by Doug Glaspell, to pass Ordinance 2622 on first reading as presented. All present voted yes. Motion passed.

SUNSET VILLAGE ADDITION ANNEXATION

A hearing was held on the annexation of the Sunset Village Addition.

Planning Manager Jace Hochwalt reviewed the annexation schedule and said the owner is planning to develop the land in the near future which requires annexation. Mr. Hochwalt stated that the 10.01 acres on 6600 Road is comprised of two parcels located within the Urban Growth Boundary, City sewer service area, and Tri County water service area.

Mr. Hochwalt reviewed the zoning map and the zoning of the surrounding area. The applicant is seeking a zoning designation of R-3A, medium-high density district. City staff has not received subdivision or site development applications, but the applicant has expressed interest in building a 4-plex or 3-plex development. Mr. Hochwalt stated that multifamily use is a use by right within the R-3A zoning designation, and the Planning Commission unanimously recommended approval of the zoning designation.

Mr. Hochwalt recommended approval of the annexation and zoning designation stating that the request is consistent with public health, safety and welfare, City annexation policies, and the Comprehensive Plan. An annexation impact report and an annexation agreement have been completed

Resolution 2023-07: City Council considered Resolution 2023-07, Findings of Fact for the Sunset Village Addition.

Public comment was accepted.

A motion was made by Dave Frank, seconded by J. David Reed, to adopt Resolution 2023-07 as presented. All voted yes. Motion passed.

Ordinance 2623 – First Reading: City Council considered Ordinance 2623 on first reading, an Ordinance of the City of Montrose, Colorado for the annexation of the Sunset Village Addition. A hearing was held.

Mayor Barbara Bynum opened the hearing.

Public comment was accepted. No comments were received.

Mayor Bynum closed the hearing.

A motion was made by Doug Glaspell, seconded by Dave Frank, to pass Ordinance 2623 on first reading as presented. All voted yes. Motion passed.

ORDINANCE 2624 – FIRST READING

City Council considered Ordinance 2624 on first reading, an Ordinance of the City of Montrose, Colorado, providing for the zoning of the Sunset Village Addition as an "R-3A," Medium High Density District. A hearing was held.

Mayor Barbara Bynum opened the hearing.

Public comment was accepted. No comments were received.

Mayor Bynum closed the hearing.

A motion was made by J. David Reed, seconded by Doug Glaspell, to pass Ordinance 2624 on first reading as presented. All voted yes. Motion passed.

OTTER ROAD RIGHT OF WAY DEDICATION PLAT

City Council considered the Otter Road Dedication, an Official Act of the City of Montrose plat.

Planning Manager Jace Hochwalt reported that the Grove Preliminary Subdivision was approved at the March 22 regular City Council meeting. The applicant is preparing to start infrastructure construction, but Otter Road must be dedicated to the City first. As proposed, approximately 680 feet of right of way will be dedicated to accommodate access to the Grove Subdivision.

Public comment was accepted. No comments were received.

A motion was made by J. David Reed, seconded by Dave Frank, to approve the Otter Road Dedication, an Official Act of the City of Montrose plat as presented. All voted yes. Motion passed.

2023 PAVEMENT MARKING CONTRACT AWARD

City Council considered the award of a contract for 2023 pavement marking services to Stripe a Lot of Montrose, Colorado, for the not-to-exceed amount of $200,000.00.

Public Works Manager Jim Scheid reported that this annual contract is for all pavement markings including crosswalks and turn arrows. Mr. Scheid stated that the City has worked with Stripe a Lot over the past several years with good results. Mr. Scheid said that the budgeted amount for 2023 was increased to account for inflation and recommended approval of the contract.

Public comment was accepted. No comments were received.

A motion was made by Dave Frank, seconded by Doug Glaspell, to approve the award of a contract for 2023 pavement marking services to Stripe a Lot of Montrose, Colorado, for the not-to-exceed amount of $200,000.00. All voted yes. Motion passed.

STAFF REPORTS

Sales, Use, and Excise Tax Report: Finance Director Shani Wittenberg provided a sales, use, and excise tax report for the month of February 2023. Ms. Wittenberg reported that total sales and use tax collections were up 1.8 percent as compared to February 2022 with a positive budget variance of 10.2 percent. Year-to-date collections were up 4.6 percent with a positive budget variance of 13.3 percent.

YOUTH CITY COUNCIL COMMENTS

Youth City Council Mayor Grace Hotsenpiller reported that the Youth City Council will conduct its annual street clean-up on April 19 in conjunction with Earth Week, and a Riverbottom Park clean-up is planned for April 26.

CITY COUNCIL COMMENTS

City Councilor Dave Frank thanked everyone who provided assistance during his year as mayor.

City Councilor Ed Ulibarri acknowledged the city clerks for their assistance.

Additional Staff Comments: Deputy City Manager Ann Morgenthaler reported that an information sheet on City services and facility locations will be available at public meetings and on the City website. Mayor Barbara Bynum reported that public meetings including City Council, Planning Commission and Historic Preservation Commission are now held in the City Council Chambers. The Visitor Center will open in the Elks Civic Building on April 29.

Planning Manager Jace Hochwalt reported that a Housing Needs Assessment Open House will be held on Monday, May 1, at 6:00 p.m. in the Community Room of the Montrose Public Safety Complex.

MOTION TO ADJOURN

At 7:09 p.m., a motion was made by Doug Glaspell to adjourn the meeting with no further action taken.

ATTEST:

_____
Barbara Bynum, Mayor

_____
Briceida Ortega, Deputy City Clerk

ORDINANCE NO. 2621

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, APPROPRIATING FUNDS AND AUTHORIZING THE LOANING OF MONEY IN CONJUNCTION WITH THE SALE OF REAL PROPERTY ADDRESSED AT 433 SOUTH FIRST STREET, MONTROSE, COLORADO, PURSUANT TO ARTICLE II SECTION 5 OF THE CHARTER OF THE CITY OF MONTROSE

WHEREAS, the authorization of the sale of the property currently known as City Hall which has the address of 433 South First Street, Montrose, Colorado 81401 was approved by Council on first reading by City Council on March 7, 2023; and

WHEREAS, a condition of the sale of City Hall was that the City shall originate the loan for the purchaser; and

WHEREAS, being the loan originator allows the City to have more control over City Hall in the event the purchaser is not able to fulfill the obligations of the loan; and

WHEREAS, the City intends to have the proceeds of this sale fund the City's portion of the Montrose Permanent Fund, which will be a $2,000,000.00 endowment fund, in partnership with Colorado Mesa University, who shall fund the remaining portion, through the Colorado Mesa University Foundation, which shall provide a permanent source of funding to support Montrose students who attend Colorado Mesa University; and

WHEREAS, Article II, Section 5 of the City Charter mandates an ordinance for the appropriation of funds and to authorize the borrowing of money.

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

SECTION 1:

The sale price of City Hall, which has the address of 433 South First Street, Montrose, Colorado 81401, is $1,550,000.00. Rathbone PropCo, LLC has placed $50,000.00 earnest money in escrow and shall pay the City $250,000.00 of the sale price at closing. City Council hereby authorizes the loan of $1,250,000.00 of the sale price of City Hall to Rathbone PropCo, LLC as a condition of the sale.

SECTION 2:

The City Council hereby authorizes the allocation of $400,000.00 to the Colorado Mesa University Foundation to create the Montrose Permanent Fund, for the current fiscal year. The allocation of the $400,000.00 is contingent upon the closing of the sale of City Hall.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 18th day of April, 2023, at the hour of 6:00 p.m. in the City Council Chambers located in the Elks Civic Building, 107 S. Cascade Avenue, in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of April, 2023.

ATTEST:

Lisa DelPiccolo, City Clerk

CITY OF MONTROSE CITY SEAL COLORADO

Barbara Bynum, Mayor

INTRODUCED, READ and ADOPTED on second reading this 2nd day of May, 2023.

ATTEST:

Briceida Ortega, Deputy City Clerk

_____, Mayor

ORDINANCE NO. 2622

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, GRANTING AND AUTHORIZING THE CONVEYANCE OF AN INTEREST IN CITY-OWNED REAL ESTATE PURSUANT TO § 1-9-2 OF THE OFFICIAL CODE OF THE CITY OF MONTROSE

WHEREAS, Colorado Mesa University – Montrose, wishes to grow and expand its campus, while also providing a safe and inviting area for pedestrians and students to congregate; and

WHEREAS, the City of Montrose desires to work in common with the university and its efforts to expand; and

WHEREAS, the City of Montrose wishes to convey a portion of South Third Street, as described in **Exhibit A** attached hereto, to the adjacent property owners, Colorado Mesa University – Montrose, and Montrose Regional Library District; and

WHEREAS, the City owns and wishes to retain a utility easement within the described South Third Street right-of-way, described in **Exhibit B**, attached hereto.

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

SECTION 1: **Disposal of Property**

The portion of property particularly described in **Exhibit A**, attached hereto and incorporated herein, is hereby disposed of by the City of Montrose and shall be conveyed to the adjacent property owners, Colorado Mesa University and Montrose Regional Library District. The City shall retain an easement for all public utilities within the vacated right-of-way as shown on **Exhibit B,** attached hereto and incorporated herein.

SECTION 2: **City Council Findings**

The City Council hereby finds, determines, and declares that this Ordinance is necessary and proper to serve the best interest of the citizens of Montrose, and promote their health, safety and welfare.

SECTION 3: **Power to Adopt**

The City Council hereby finds, determines, and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter, and pursuant to § 1-9-2 of the Official Municipal Code of the City of Montrose.

SECTION 4: **Effective as Provided by the City of Montrose Charter**

This Ordinance shall be published and shall become effective as provided by the City Charter of the City of Montrose.

SECTION 5: **Authorization to Execute**

The City Council hereby authorizes the Mayor and City Staff to execute all documents required to consummate said conveyance to the adjacent property owners, Colorado Mesa University and Montrose Regional Library District.

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 18th day of April, 2023, at the hour of 6:00 p.m. in the City Council Chambers located in the Elks Civic Building, 107 S. Cascade Avenue, in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of April, 2023.

CITY OF MONTROSE CITY SEAL COLORADO

Barbara Bynum, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 2nd day of May, 2023.

_____, Mayor

ATTEST:

_____
Briceida Ortega, Deputy City Clerk

CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Jace Hochwalt, Planning Manager
DATE: May 2, 2023
RE: ANX22-0103 Sunset Village Addition

ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: Annexation Plat Map
- Exhibit C: 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:

February 6th:	Council Work Session overview
March 7th:	Council Resolution to set a hearing date
March 22nd:	Planning Commission zoning hearing
April 18th:	City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance
May 2nd:	2nd reading of annexation and zoning ordinances

Application Background:
The Sunset Village Addition is a proposed annexation approximately 10.01 acres in size. The property is two parcels located at 576 6600 Road and 616 6600 Road. The parcels are within the City's Urban Growth Boundary, City of Montrose Sewer Service Area, and the Tri-County Water Service Area. Annexation of this property will allow for future single or multi-family

residential development. An Annexation Agreement has been completed.

Proposed Zoning: "R-3A" Medium High Density District

Applicant: Cook Family Trust (Floyd L. Cook as Trustee)

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 4-4-7.1 (A) Intent: The "R-3A" Medium High Density District is intended to provide an area which is suitable for single-family homes, duplexes and multifamily residences with intermediate overall density. This district provides for other uses which are compatible with such residential uses.
    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-4" High Density District, and properties outside of City limits.
4. The Comprehensive Plan Future Land Use Map designates the area of the Sunset Village Addition as ***Residential Mixed Density Medium***. This district provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes and triplexes. The majority of the mixed-density medium residential land uses are designated in areas that are not yet developed.
    a. Goal LU (Land Use) 5: Infill & Redevelopment: Promote higher density infill and redevelopment of underutilized sites.
    b. Goal HN (Housing & Neighborhoods)-1: Housing Variety. Encourage a variety of housing types, tenure, and density to meet the needs of the community.
        i. Objective 1.1 Promote a mix of residential housing types including single-family homes on a variety of lot sizes, multi-family housing, townhomes, apartments, senior housing, and transitional housing.

ii. Objective 1.2 Encourage a variety of housing densities (low, medium, high) throughout the community, including mixed-density neighborhoods.

c. Goal HN-2: Affordable Housing. Increase access to affordable housing.

i. Objective 2.1 Encourage a mix of housing price ranges, thereby providing choices for residents of all incomes and ages.

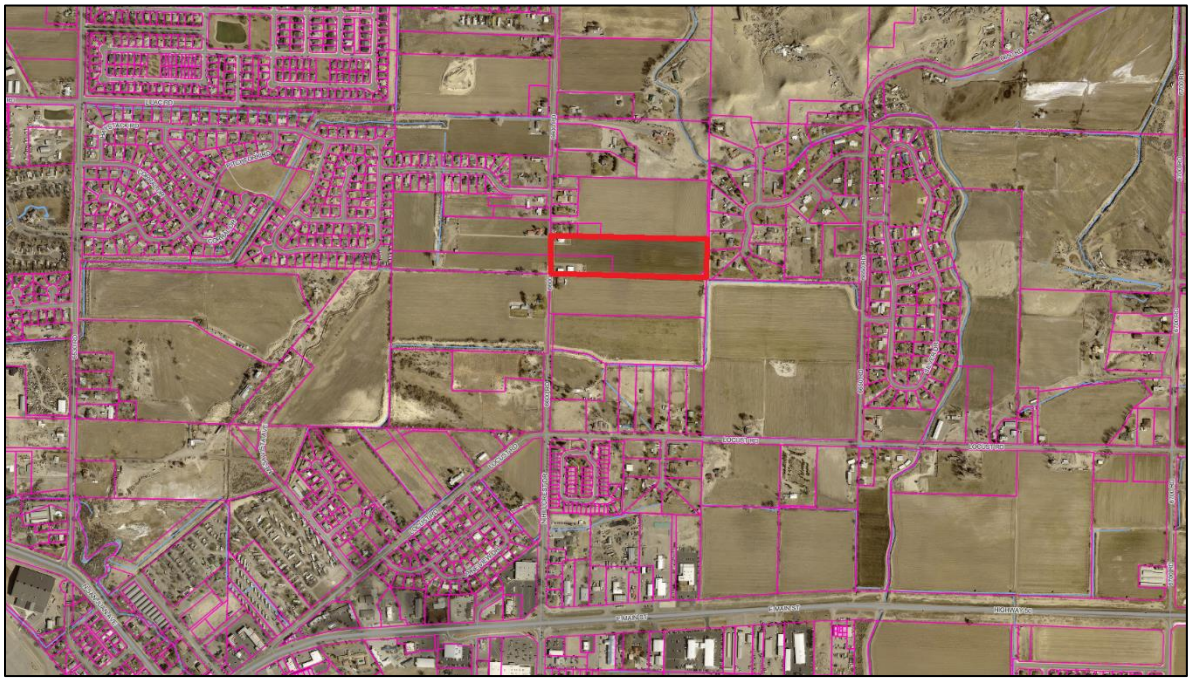
5. The property is located within Growth Area 2. According to the Comprehensive Plan, Growth Area 2 has some level of, or moderate proximity to, existing infrastructure.
6. The "R-3A" zoning does not appear to be adverse to the public health, safety and welfare.

Staff Recommendation:

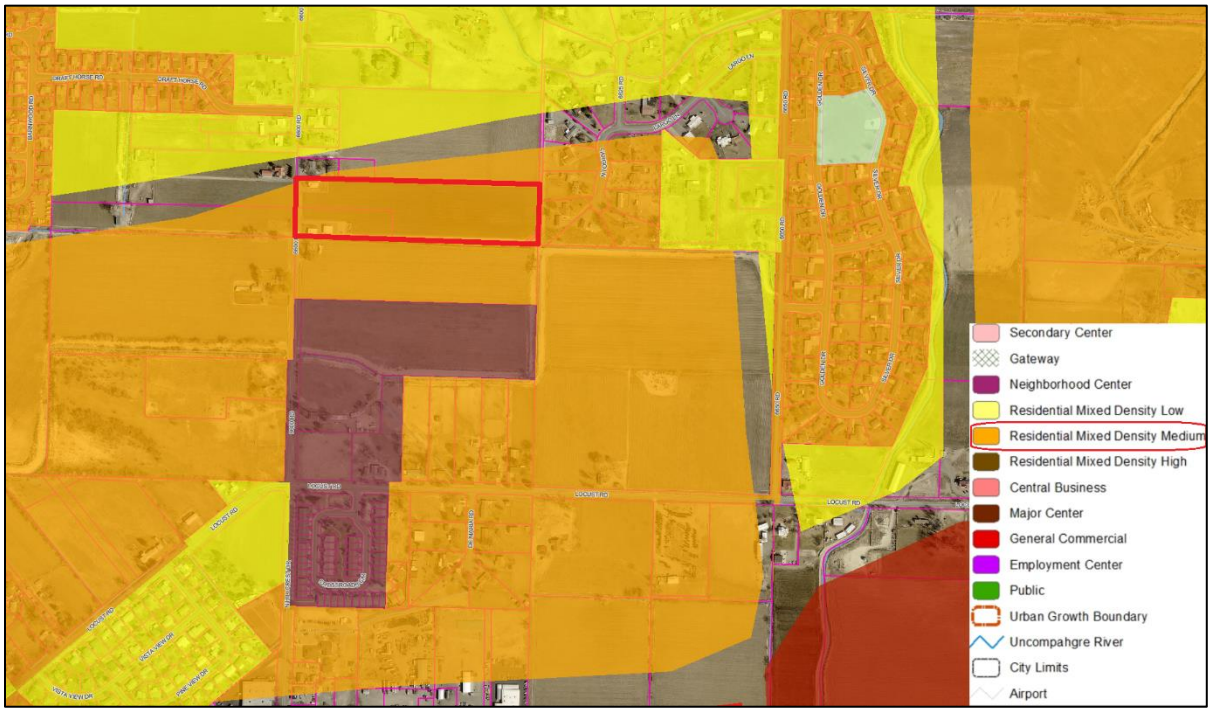
Staff recommends approval of the annexation and "R-3A" Medium High Density District.

EXHIBIT A: Maps

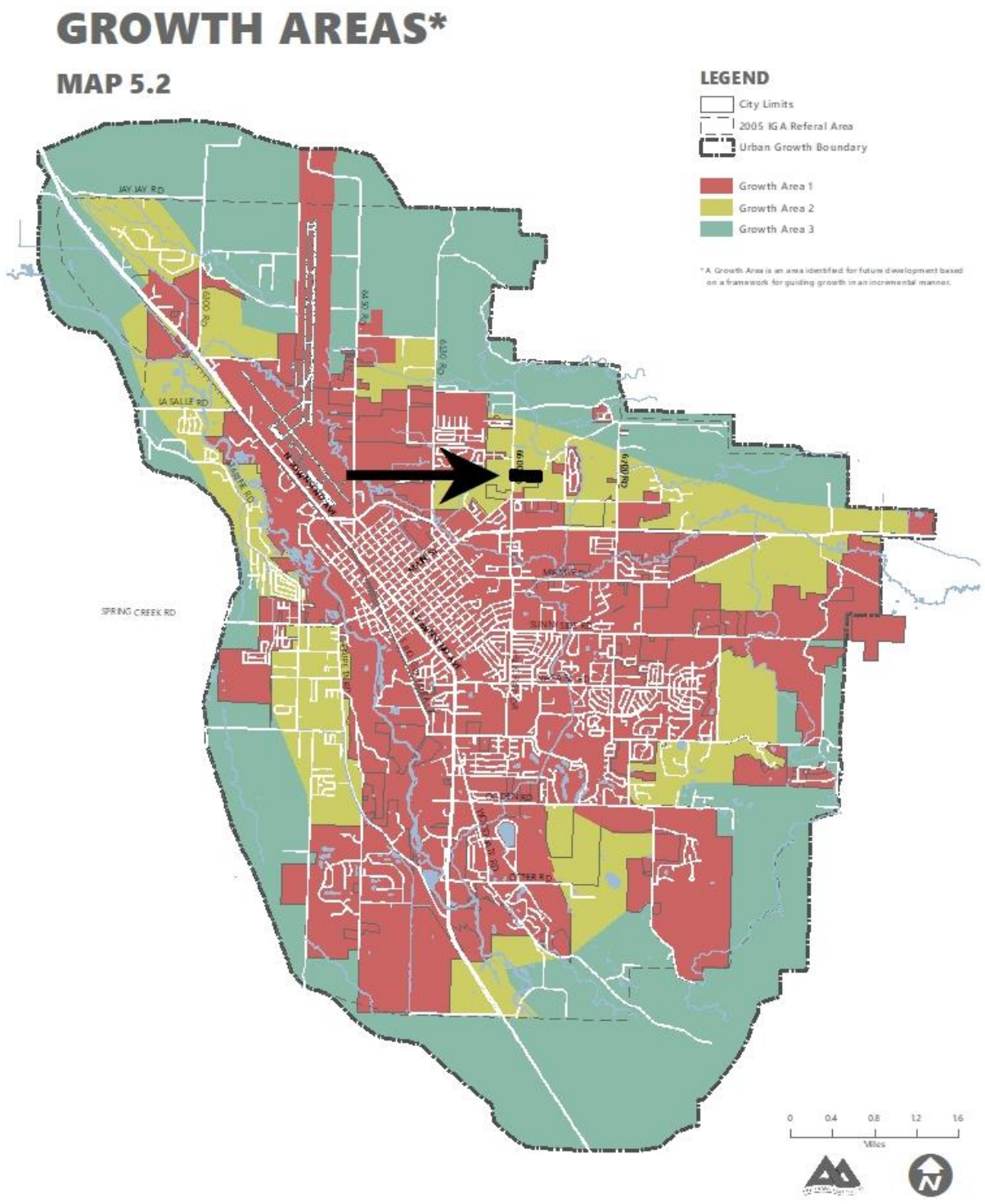
Vicinity Map



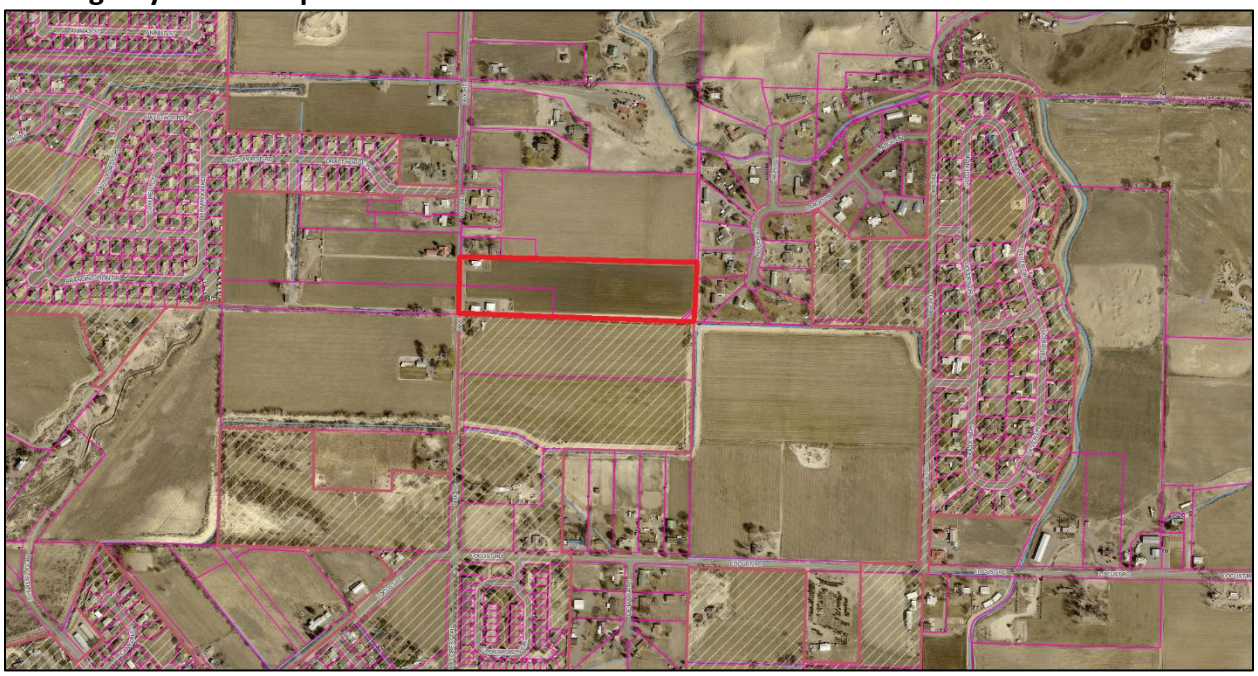
Comprehensive Plan Future Land Use Map



Comprehensive Plan Growth Areas Map



Existing City Limits Map



Existing Zoning Map

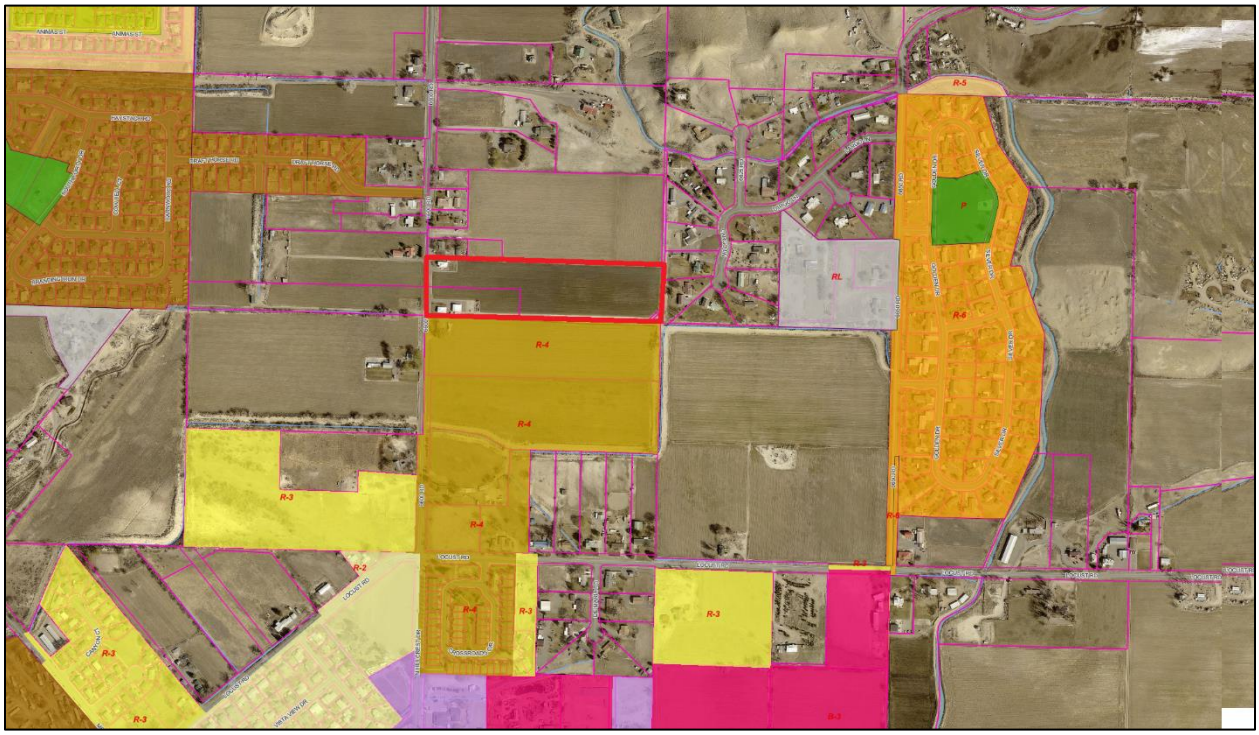


EXHIBIT B: Annexation Plat Map

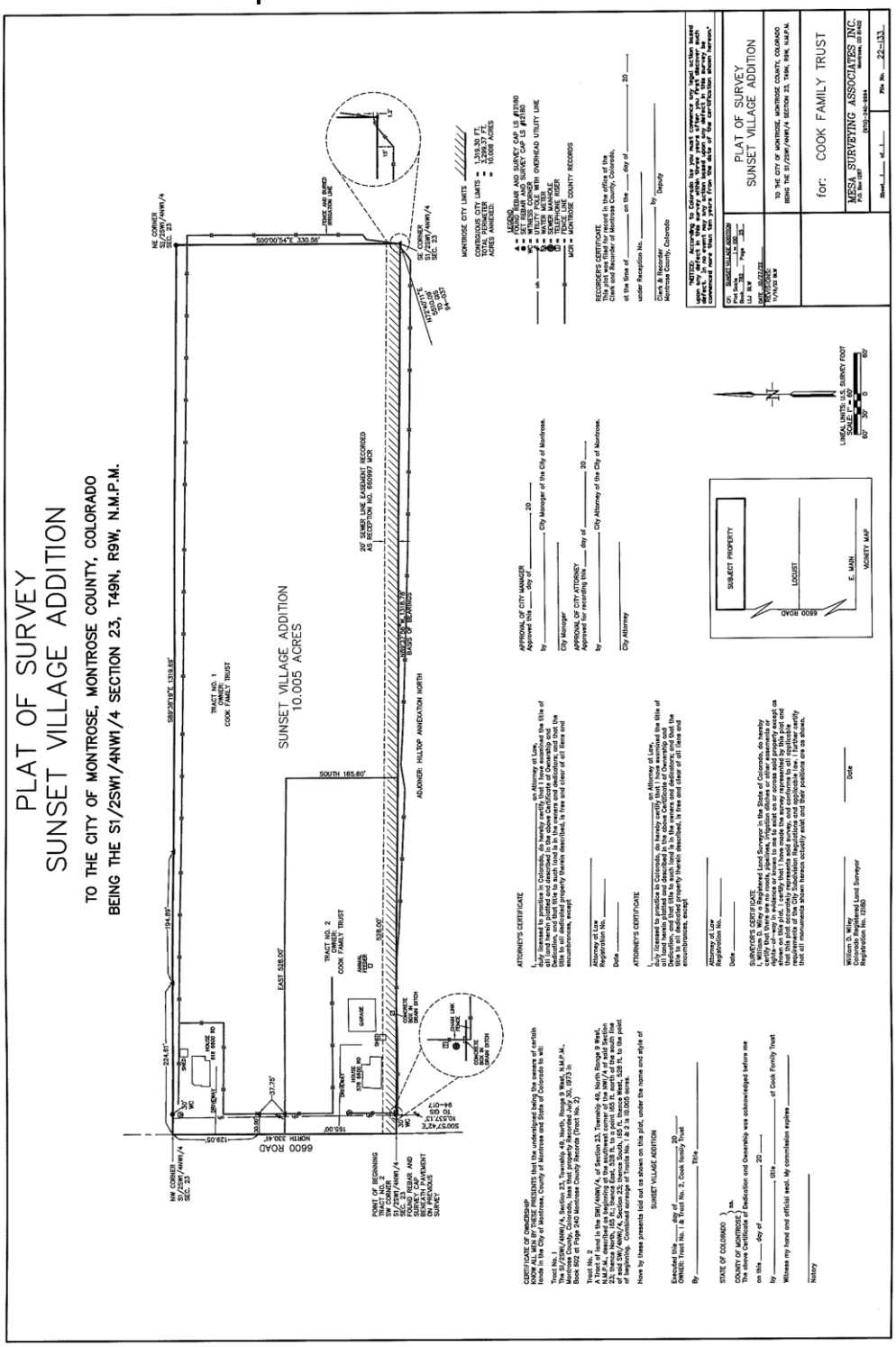


EXHIBIT C: Zoning Code Excerpt

Sec. 4-4-7.1. "R-3A" Medium High Density District.

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

(B) *Uses by Right.*

(1) Single-family homes, duplexes, and multiple-family residences.

(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.

(7) Short-term rentals.

(8) Family child care home.

(C) *Conditional Uses.*

(1) Skilled nursing and assisted living facilities.

(2) Childcare facilities.

(3) Schools.

(Ord. No. 2472 , § 4-4-7.1, 5-7-2019; Ord. No. 2561 , 10-19-2021)

ORDINANCE NO. 2623

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, FOR THE ANNEXATION OF THE **SUNSET VILLAGE ADDITION.**

WHEREAS, a petition for the annexation of a tract of land known as the **Sunset Village Addition** has been submitted to the City of Montrose and has been found by the City Council to be in substantial compliance with C.R.S. § 31-12-107(1), and

WHEREAS, said petition has been signed by the owners of 100% of the area proposed to be annexed exclusive of streets and alleys, and

WHEREAS, the property is eligible for annexation in accordance with the Municipal Annexation Act of 1965, as amended,

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

SECTION 1:

The property described in **Exhibit A**, known as the **SUNSET VILLAGE ADDITION,** is hereby annexed to the City of Montrose, Colorado.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 18th day of April, 2023, at the hour of 6:00 p.m. Montrose City Council Chambers, Elks Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of April, 2023.

Barbara Bynum, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

CITY OF MONTROSE CITY SEAL COLORADO

INTRODUCED, READ and ADOPTED on second reading this 2nd day of May, 2023.

_____

_____, Mayor

ATTEST:

_____

Briceida Ortega, Deputy City Clerk

EXHIBIT A

Legal Description

Tract No. 1:

A Tract of land in the Southwest Quarter Northwest Quarter (SW1/4NW1/4), of Section Twenty-three (23), Township Forty-nine (49) North, Range Nine (9) West, N.M.P.M., described as beginning at the Southwest corner of the Northwest Quarter (NW1/4) of said Section 23, thence North 165 feet, thence East 528 feet to a point 165 feet North of the South line of said SW1/4NW1/4, Section 23, thence South 165 feet, thence West 528 feet to the point of beginning, County of Montrose, State of Colorado.

Also known by street and number as: 576 66.00 Rd., Montrose, Colorado 81401.

And additionally, the parcel described as follows:

Tract No. 2:

The South Quarter of the Southwest Quarter of the Northwest Quarter (S1/4SW1/4NW1/4) of Section Twenty-three (23) in Township Forty-nine (49) North of Range Nine (9) West of the New Mexico Principal Meridian, EXCEPT a tract described as beginning at the Southwest corner of the NW1/4, said Section 23, thence North 165 feet, thence East 528 feet to a point 165 feet North of the South line of said SW1/4NW1/4, Section 23, thence South 165 feet, thence West 528 feet to the point of beginning, County of Montrose, State of Colorado.

Also known by street and number as: 616 66.00 Rd., Montrose, Colorado 81401.

ORDINANCE NO. 2624

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, PROVIDING FOR THE ZONING OF THE **SUNSET VILLAGE ADDITION** AS AN "R-3A," MEDIUM HIGH DENSITY DISTRICT

WHEREAS, the **Sunset Village Addition** has been recently annexed to the City of Montrose, Colorado; and

WHEREAS, the owners of such property have requested zoning which the Planning Commission has reviewed and recommended in accordance with the requirements of the City Code; and

WHEREAS, the proposed recommendation is substantially in accord with the City's Master Plan, is compatible with existing zoning in nearby or adjoining properties, and is in the public interest.

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

The Official Zoning Map is hereby amended to designate the **Sunset Village Addition,** according to the Official Annexation Map thereof, as an "R-3A," Medium High Density District.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 18th day of April, 2023, at the hour of 6:00 p.m. at Montrose City Council Chambers, Elks Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of April, 2023.

CITY OF MONTROSE CITY SEAL COLORADO

Barbara Bynum, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 2nd day of May, 2023.

_____, Mayor

ATTEST:

_____
Briceida Ortega, Deputy City Clerk

ORDINANCE NO. 2625

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, CLARIFYING ARTICLE I, SECTION 7 OF THE CHARTER OF THE CITY OF MONTROSE, REGARDING QUALIFICATIONS FOR CANDIDATES TO THE OFFICE OF CITY OF MONTROSE COUNCILOR.

WHEREAS, the City of Montrose is a home rule city with all the authority vested by Article XX, § 6 of the Constitution of the State of Colorado, to include the "full right of self-government in both local and municipal matters," *McCormick v City of Montrose*, 99 P.2d 969, 972 (Colo. 1940), and

WHEREAS, the Article I, § 2, of the Charter of the City of Montrose reserves to the City "all powers necessary, requisite or proper for the government and administration of its local municipal matters, and all powers which are granted to Home Rule Cities by the Constitution and Statutes of the State of Colorado" with the enumeration of certain powers not to be construed to deny to the City of Montrose and the people thereof any right or power granted to them by the Constitution of the State of Colorado, and

WHEREAS, "[a] municipal election is a matter of local concern over which a home rule city has plenary power" under Colo. Const. Article XX, § 6(d), *Englewood Police Ben. Ass'n, Fraternal Ord. of Police Lodge No. 22 v. City of Englewood*, 811 P.2d 464, 465 (Colo. App. 1990), and

WHEREAS, Colo. Const. Article XX, § 6(a) expressly authorizes a home rule municipality the power "to legislate upon, provide, regulate, conduct and control: a. [t]he creation and terms of municipal officers, agencies and employments; the definition, regulation and alteration of the powers, duties, qualifications and terms or tenure of all municipal officers, agents and employees;" and

WHEREAS, the Colorado Supreme Court has recognized by the adoption of Article XX as a state constitutional amendment that "the people of Colorado specifically granted citizens of home rule municipalities the right to name their own officers and determine how those officers should be selected, their qualifications, and their tenure" *FOP v City and County of Denver*, 926 P.2d 582, 587 (Colo. 1996), and

WHEREAS, learned treatises on statutory construction recognize that "[c]onstitutions are the supreme law of the land, and one of their outstanding features is flexibility and a capacity to meet changing conditions. Constitutional policy can provide a valuable aid to determine the legitimate boundaries of statutory meaning. Public policy which has a constitutional source can provide the basis for a broad or narrow statutory interpretation." 2B Sutherland Statutory Construction, § 56:04 (7th Ed. West 2022), and

WHEREAS, courts have a duty to construe legislative enactments harmoniously where reasonable within a complicated system of enacted law, 2B Sutherland Statutory Construction, § 53:01 (7th Ed. West 2022), and

WHEREAS, the City has reserved the right to clarify Charter provisions via ordinance when necessary for the efficient administration of City of Montrose Government, and

WHEREAS, the City's Ordinances regarding the Charter are updated from time to time.

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

SECTION 1:

The following of Article I Governmental Powers and Legislative Officials, Section 7 of the Official Charter of the City of Montrose, Colorado is hereby clarified pursuant to Article X, Section 3 of the Charter to insert a usage footnote intended to guide a reviewing court of competent jurisdiction, to read in full as follows:

> **FN1 Standards of Interpretation: If any provision of the language of this section is subjected to challenge before a court of competent jurisdiction, the canon of constitutional avoidance to interpret the language of this section for harmony and constituency with all parts of the Constitution of the State of Colorado may be used without a predicate finding of ambiguity.**

SECTION 2:

The City Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Montrose and the inhabitants thereof.

SECTION 3:

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter, to include Article X, Section 3 on Clarifying the Charter.

SECTION 4:

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5:

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6:

This Ordinance shall become effective as set forth in the City of Montrose Charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 2nd day of May, 2023, at the hour of 6:00 p.m. Montrose City Council Chambers, Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 2nd day of May, 2023.

ATTEST:

_____ _____

Briceida Ortega, Deputy City Clerk Barbara Bynum, Mayor

INTRODUCED, READ and ADOPTED on second reading this 16th day of May, 2023.

_____

Barbara Bynum, Mayor

ATTEST:

_____

Lisa DelPiccolo, City Clerk

CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Jace Hochwalt, Planning Manager
DATE: May 2, 2023
RE: Land Use Code Consolidation and Update

ATTACHMENTS:

- Exhibit A: List of Substantive Revisions
- Exhibit B: Title 11 as proposed (attached and also linked here)
- Exhibit C: Title 11 reflecting redlines (Linked here)

City Council Consideration

City Council is considering legislative code amendments to the Land Use code for the City of Montrose. The purpose of the proposed code amendments is to consolidate the existing land use code into one title, eliminate redundancies, and modernize for clarity and readability.

Proposed schedule:

April 3, 2023:	Council Work Session Overview
April 17, 2023:	Public/Stakeholder Open House
May 2, 2023:	**City Council 1st Reading**
May 16, 2023:	City Council 2nd Reading

Project Background:

Project Purpose

City staff and Plan Tools LLC have undertaken a major land use code update process in order to consolidate the City of Montrose's existing land use code into one Title within the Montrose Municipal Code, thereby eliminating redundancies and modernizing the code for clarity and readability. Planning and land use regulations are currently dispersed throughout several areas of the Montrose Municipal Code and Montrose Regulations Manual. While a bulk of land use and planning topics, such as zoning regulations and subdivision standards are housed within

Title 4 (Building Regulations), there are also several sections within Title 4 (Land Use and Building Regulations) of the Montrose Regulations Manual, such as Annexation Policy and Site Development standards. The list of titles, chapters, and sections from the Montrose Municipal Code and Montrose Regulations Manual that are being consolidated are below. These titles, chapters, and sections are being struck through in their current respective areas, and will be incorporated into the newly proposed title.

Montrose Municipal Code

- Title II Planning Commission
- Chapter 4-2 Floodplain Management
- Chapter 4-4 Zoning
- Chapter 4-7 Subdivision Regulations
- Chapter 4-12 Mobile Home and Travel Home Regulations
- Chapter 4-13 Outdoor Lighting
- Chapter 4-14 Adult Business Regulations
- Chapter 4-15 Historic Preservation
- Section 4-1-12 Site development and maintenance requirements
- Section 4-1-13 Use of City right-of-way for parking
- Section 4-1-15 Supplemental site development standards for Highway Corridors
- Section 4-1-16 Supplemental site development standards for large retail development

Montrose Regulations Manual

- Chapter 3-7 Antenna, Tower and Telecommunications Facilities Location
- Chapter 4-2 Site Development Standards
- Chapter 4-5 Large Retail Site Development Standards

Having different land use sections scattered throughout the Municipal Code and Regulations Manual creates confusion and redundancy for developers trying to understand code requirements for their proposals. It can also create confusion at a staff level where redundancies exist but there is a lack of clear consistency. This consolidation effort will eliminate the need to jump from different titles in the existing Municipal Code, as well as the Regulations Manual. The consolidation process will bring all land use topics under a new title, which is proposed to be Title 11. There will be 15 chapters housed under Title 11 of the Municipal Code, and these are reflected below.

Title XI LAND DEVELOPMENT

Chapter 1: General Provisions
Chapter 2: Planning Commission

Chapter 3: Historic Preservation
Chapter 4: Development Review Procedures
Chapter 5: Subdivision Regulations
Chapter 6: Floodplain Management
Chapter 7: Zoning Regulations
Chapter 8: Site Development Standards
Chapter 9: Outdoor Lighting
Chapter 10: Signs
Chapter 11: Supplementary Uses
Chapter 12: Adult Businesses
Chapter 13: Mobile Homes and Travel Homes
Chapter 14: Wireless Communications
Chapter 15: Definitions

City staff has attached the new Title 11 as proposed as Exhibit B, and has linked the Redlined Code Update on page one of this report as Exhibit C. The redlined version was included for transparency to clearly reflect what is being added and removed. These documents, along with a description of the project from the consultant, Plan Tools, LLC, can also be found at https://www.plan-tools.com/Community/Home.asp within the Project Portal.

Substantive Revisions

As has been indicated, the purpose of the proposed code amendments is to consolidate the existing land use code into one title, eliminate redundancies, and modernize for clarity and readability. Some changes that were more substantive in nature were included in the code update process, many of which were included to add additional clarity to the code. Exhibit A reflects the substantive changes on a chapter-by-chapter basis. While the summaries below don't cover every substantive change listed in Exhibit A, details are elaborated on regarding the specifics of some of the substantive changes.

Legal Compliance

While going through this code consolidation process, it was found that some areas of the code were due for updates based on federal and/or state laws. One example of this is the federal Fair Housing Act, which requires that local governments be prepared to make reasonable accommodations in order to permit housing for certain protected individuals. This is more specifically outlined in proposed Section 11-1-9. In addition, Group Homes, which are not clearly defined in the current code, are now clearly defined in the proposed code update in order to provide clarity that legal compliance with the Federal Housing Act is met. The code update is proposing to allow for Group Homes of up to eight handicapped or disabled residents to locate in a zoning district that allows for single-family residential uses. Any more than eight

residents and a Group Home would require a Conditional Use Permit. Another amendment related to legal compliance is specific to wireless communications and cell towers, more specifically related to federal review timelines and standards. These changes are outlined in proposed Chapter 14. There have also been other code sections that have been updated for legal clarity, albeit minor and non-substantive in nature.

Clarity and Consistency

A key piece of this consolidation process was to make sure the code was clear and consistent throughout. The existing code has several sections with redundancy, and that can create vagueness to users of the land use code. Redundancies have been eliminated where applicable, and clarity has been added where needed. A good example of this is within proposed Chapter 4 (Development Review Procedures). In the existing code, there is little reference to the process of applications and when applications are deemed withdrawn or expired. The proposed code update requires that if the Applicant of a development application fails to respond to staff comments within 90 days, the application is deemed withdrawn, and a new application must be submitted. This 90-day threshold is fairly standard among other jurisdictions, and provides a clear timeline for both City staff and developers. Should the Applicant have something that is holding the project up (such as infrastructure issues or title discrepancies), they can formally request extensions to that 90-day timeline.

Furthermore, in the current code, very few development application types have specific timelines for approval validity. For the purposes of this code update, staff found it appropriate to clearly outline approval durations, which is reflected in proposed Section 11-4-8. This proposal provides clarity and consistency as it relates to how long a development approval is valid for. As land use conditions, codes, and standards change over time, staff feels that there is a need to clearly articulate how long approvals are valid for. This will help in avoiding decades old projects coming to fruition under old approvals that no longer match with current code standards.

As it relates to mobile homes, manufactured homes, and modular housing, the current code definitions are not fully clear or accurate. With the proposed update, these definitions have been refined (as reflected in Section 11-15-10) to clearly distinguish the differences. Mobile homes are moveable homes that were constructed prior to 1976 when HUD (Housing and Urban Development) standards came into effect. Manufactured homes are HUD approved homes that can be sited on a permanent or temporary foundation and are affixed with a HUD approved label. Modular housing meets or exceeds the City's building code standards (which is not the case for HUD standards) and is affixed with a state approved label reflecting compliance with international building codes. In addition, modular housing can also only be situated on a permanent foundation.

Modernization

There are minimal charts within the current code, and many of the references that need to be found specific to application processing requirements, notification requirements, and allowed uses are in the narrative of specific sections that are sometimes difficult to find or understand. As such, charts have been added to the proposed land use code that clearly display specific requirements. As proposed, Table 1.1 within Chapter 4 clearly outlines the requirements (from start to finish) of all application types. This chart clearly articulates when applications are administrative, or if public hearings or City Council decisions are required.

In addition, as proposed, Sections 11-7-6 (G) & (H) clearly identify what uses are allowed in what zoning districts and whether they are permitted or conditional uses. The proposal is not adding or eliminating uses, nor is it changing where certain uses are allowed to be located. However, the tables help with visualization and efficiency by having all uses outlined in a single area of the code, instead of scattered throughout several different code sections.

Next Steps

Staff is considering this current update and consolidation proposal as "Phase 1" of what will be a multi-phase code update process. As indicated, the purpose of Phase 1 is to consolidate and modernize while minimizing substantive changes to current processes and code language. This was done intentionally so as to not hold up the consolidation process by bringing more substantive changes that will likely require additional City Council discussion and work sessions.

Future phases of this code update process will look at more into substantial changes that will bring the code more in line with the Comprehensive Plan. As outlined in Action 1.1 of the Comprehensive Plan's Implementation Plan "the City's land use codes and ordinances should be updated to conform to the Comprehensive Plan and support a timey and reasonable development review process." As such, staff will be looking at specific action items that help achieve this goal as it relates to infill and redevelopment, housing, and open space, among many other topics. Phase 1 is really seen as the building block; without it, any substantive changes may add even more confusion to the existing code.

ORDINANCE NO. 2626

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING THE MONTROSE MUNICIPAL CODE BY REPEALING PROVISIONS RELATING TO THE PLANNING COMMISSION AND LAND DEVELOPMENT, REPEALING CERTAIN CHAPTERS OF THE MONTROSE REGULATIONS MANUAL RELATING TO LAND DEVELOPMENT, AND ADOPTING A NEW TITLE XI - LAND DEVELOPMENT REGULATIONS FOR THE CITY

WHEREAS, the City of Montrose is a Colorado home rule municipality, operating under a home rule charter and governed by its elected City Council; and

WHEREAS, the home rule charter and the Colorado revised statutes grant plenary authority to the City Council to adopt and enforce ordinances governing land development and for the protection of the public health, safety and welfare; and

WHEREAS, in the exercise of this authority, the Council has previously adopted provisions within Title II and Title IV of the Montrose Municipal Code relating to the function of the Planning Commission and to land development; and

WHEREAS, the Council has also adopted certain chapters within the Montrose Regulations Manual governing specific land use activities; and

WHEREAS, the Council has approved a comprehensive review by City staff and outside consultants, of the City's land development code and regulations with the objective of reorganizing the same into a unified development code, to establish rules and processes in a user-friendly format that is legally sound, eliminate redundancies, modernize the code for clarity and consistency and to address code update items identified in the City's Envision 2040 Montrose comprehensive plan; and

WHEREAS, the unified code as described has been prepared and has been reviewed by the City Council in work session and is recommended for adoption, which the Council wishes to approve hereby.

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

Section 1. Existing land development regulations repealed

The following portions of the Montrose Municipal Code are hereby repealed:

- Title II - Planning Commission
- Chapter 4-2 - Floodplain Management
- Chapter 4-4 - Zoning
- Chapter 4-7 - Subdivision Regulations
- Chapter 4-12 - Mobile Home and Travel Home Regulations
- Chapter 4-13 - Outdoor Lighting

- Chapter 4-14 - Adult Business Regulations
- Chapter 4-15 - Historic Preservation
- Section 4-1-12 - Site development and maintenance requirements
- Section 4-1-15 - Supplemental site development standards for Highway Corridors
- Section 4-1-16 - Supplemental site development standards for large retail development

Section 2. Regulations Manual chapters repealed.

The following chapters of the Montrose Regulations Manual are hereby repealed:

- Chapter 3-7 - Antenna, Tower and Telecommunications Facilities Location
- Chapter 4-2 - Site Development Standards
- Chapter 4-5 - Large Retail Site Development Standards

Section 3. Title XI adopted.

A new Title XI of the Montrose Municipal Code, entitled "Land Development Regulations," attached hereto as **Exhibit A**, is hereby adopted by this reference.

Section 4. Technical corrections

The City Attorney, in consultation with the City staff, is authorized and directed to make such non-substantive corrections to **Exhibit A** for spelling, correction of cross references, section numbering, formatting, and clarity in order to render the same proper for codification.

Section 5. Publication and effective date

Pursuant to the home-rule charter of the City, this Ordinance shall be published in full following first reading and a public hearing shall be set not earlier than seven (7) days after publication. This Ordinance shall take effect and be in force five (5) days after publication following final passage. If this Ordinance is published by title, the publication shall include a summary of the subject matter hereof and a notice to the public that copies of the full text are available at the office of the City Clerk.

INTRODUCED, READ and PASSED on first reading this 2nd day of May, 2023.

_____
Barbara Bynum, Mayor

ATTEST:

_____
Briceida Ortega, Deputy City Clerk

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its adoption on second reading on Tuesday, May 16, 2023, at the hour of 6:00 p.m. in the City Council Chambers of the Elks Civic Building, in Montrose, Colorado.

INTRODUCED, READ and ADOPTED on second reading this 16th day of May, 2023.

_____
Barbara Bynum, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

Exhibit A
Title XI: Unified Land Development Regulations
[attached]

EXHIBIT A

Substantive Revisions by Chapter

CHAPTER 1: GENERAL PROVISIONS

- New **Sec. 11-1-9 Fair Housing Act Reasonable Accommodation**

CHAPTER 2: PLANNING COMMISSION

- New **Sec. 11-2-2 Action by the Planning Commission**
- Alternate members shall become voting members in the order of their seniority of appointment as alternates.

CHAPTER 3: HISTORIC PRESERVATION

- Alternate members shall become voting members in the order of their seniority of appointment as alternates.

CHAPTER 4: DEVELOPMENT REVIEW PROCEDURES

- New **Sec. 11-4-1. Compliance.** Added basic provisions for compliance with City code.
- New **Sec. 11-4-2. Review process**. Consolidated and articulated review procedures in text and chart form. Removes Planning Commission from the initiation of "an amendment or addition to the Official Zoning Map".
- New **Sec. 11-4-3. Public notice requirements.** Consolidated and articulated review procedures in text and chart form. Expanded mailed notice from 100 to 300 feet of property affected. Expanded making reasonable effort to have neighborhood meetings from just subdivision to all forms of development, and from 100 to 300 feet of property affected. Added e-mail notification option and ability to combine notifications for PC and CC.
- New **Sec. 11-4-4. Preapplication conference.** Added requirement for pre-app conference for certain types of applications, with waiver option.
- New **Sec. 11-4-5. Determination of completeness;** withdrawal of application. Codifies existing practice and adds 90 time limit for lack of response to staff comments
- New **Sec. 11-4-8. Duration of approval**. Added expiration timeframes for each form of development approval.
- New **Sec. 11-4-9. Vested property rights**. Consolidated current approach and linked to state statute.
- New **Sec. 11-4-10. Annexation**. Linked annexation to state statute. Policy will remain in MRM.

CHAPTER 5: LAND SUBDIVISION

- New **Sec. 11-5-2**. **Major subdivisions.** Distinguishes a major subdivision from minor subdivision and clarifies procedure.
- New **Sec. 11-5-3. Minor subdivisions**. Clarifies procedure for new minor subdivisions to include minor plat amendments, adds statutory common interest community provision for condominium plats, and limits ability to evade major subdivision with contiguous/consecutive minor subdivisions.

- New **Section 11-5-4. Sketch Plan.** Adds purpose statement, clarifies review procedure and review criteria; removes submittal requirements and references application which contain submittal requirements.
- New **Section 11-5-5. Preliminary Plat.** Adds purpose statement, clarifies review procedure and adds review and approval criteria; removes submittal requirements and references application which contain submittal requirements.
- New **Section 11-5-6. Final Plat.** Adds purpose statement, clarifies review procedure and adds review and approval criteria; removes submittal requirements and references application which contain submittal requirements.

CHAPTER 6: FLOODPLAIN MANAGEMENT

- **Sec. 11-6-6. Adoption of maps.** Removed FIRM map

CHAPTER 7: ZONING

- **Sec. 11-7-2. Official Zoning Map.** Staff may make technical corrections.
- **Sec. 11-7-3. Zone district boundaries.** Established rules for zoning boundaries.
- **New Sec. 11-7-4. Zoning annexed land.** Codified statutory provision for zoning with annexation.
- **New Sec. 11-7-6. District uses.** Clarified use by right as Permitted Uses. Clarified Principal Uses, Accessory Uses and Uses Not Listed. Consolidated and articulated zone district uses in text and chart form. Resolved conflicts and inconsistencies in principal and conditional use listings, e.g., building material businesses, storage facilities, and certain industrial uses.
- **Sec. 11-7-8. Planned Development (PD).** Clarifies PD procedures as currently administered.
- **Sec. 11-7-11. Nonconforming uses, lots and structures.** Added nonconforming lot provision.
- **Sec. 11-7-12. Rezoning.** Removed PC initiating rezoning and enlarging rezoning area.

CHAPTER 8: SITE DEVELOPMENT

- **Sec. 11-8-1. Site development plan required.** Added exemption for duplex residences. Clarified that required improvements include the installation of new, or repair of damaged, curb, gutter, and sidewalk along abutting streets.
- **General:** Integrated standards from MRM, removing duplicative, confusing and inessential language.

CHAPTER 9: OUTDOOR LIGHTING

- No substantives change after reformatting

CHAPTER 10: SIGNS

- **Sec 11-10-1: Purpose and Intent.** Added protected First Amendment right of free speech
- **Sec. 11-10-2. General Provisions.** Removed minimum 500 sq. foot limitation from requirement to have a permanent building on property
- **Sec. 11-10-7. Supplemental sign standards.** Allow for window signs not exceeding 2 square feet in residential zones.
- **General:** Updates based on case law:

-Reed v Town of Gilbert, e.g., Removed exception for “collective identification signs for churches and service clubs”, deleted commercial message substitution clause
-City of Austin v Reagan National Advertising, e.g., added definition of off-premise sign

CHAPTER 11: SUPPLEMENTARY USES

- **New Sec. 11-11-2. Group homes.** Federal and case law requires allowance of group homes for disabled in residential districts. Code revision permits up to 8 persons – consistent with state statute.
- **New Sec. 11-11-4. Industrial performance.** Added basic life/health/safety provisions for industrial performance, e.g., No materials or wastes shall be deposited upon a subject lot in such form or manner that they may be transferred off the lot by natural causes or forces.

CHAPTER 12: ADULT BUSINESSES

- No substantives change after reformatting

CHAPTER 13: MOBILE HOMES AND TRAVEL HOMES

- **General:** Clarified “manufactured structures” and “other factory built housing or structure” as manufactured housing; defined term

CHAPTER 14: WIRELESS COMMUNICATIONS

- New **Sec. 11-14-4. Review deadlines.** Added required processing deadlines
- New **Sec. 11-14-7. Standards for small cell facilities and networks.** Added review of small cells and networks. Applied location and spacing requirements for small cells.

CHAPTER 15: DEFINITIONS

- New **Sec. 11-15-1. Word usage.** Added provisions for word usage.
- New **Sec. 11-15-2. Definitions – Administrative.** Added definitions for City Manager, Land Development.
- New **Sec. 11-15-7. Definitions – Signs.** Removed content-based language where needed, e.g., for bulletin board signs, and sign. Added definition for off-premise sign.
- New **Sec. 11-15-8. Definitions – Subdivision**. Added definitions for Common Interest Community, Common Interest Community Unit, Condominium, Coop, Planned Community, and Sublot definitions, all related to new Common Interest Community provisions in the Subdivision chapter.
- New **Sec. 11-15-10. Definitions – Zoning.** Added definitions for Accessory building or structure, Bed and Breakfast, Density, Hospital, Large retail development, Modular housing, Modular structure, Official Zoning Map, Permitted use, Temporary use, and Townhome. Deleted definition for Use by Right. Clarified definitions for Accessory use, Family Child Care Home, Home occupation, Manufactured housing, Mobile home, Renewable energy facilities, and Setback.

EXHIBIT B

Title XI LAND DEVELOPMENT REGULATIONS

CHAPTER 11-1. GENERAL PROVISIONS

Sec. 11-1-1. Title.

This Title XI shall be known as the "Land Development Regulations of the City of Montrose, Colorado," or "this Title" and may be so pleaded and cited.

Sec. 11-1-2. Authority.

This Title is enacted pursuant to the powers granted to the City as a home rule municipality under Article XX of the Colorado Constitution, and the laws of the State of Colorado, including without limitation Colorado Revised Statutes 31-25-201 et seq and 29-20-101 et seq.

Sec. 11-1-3. Jurisdiction.

This Title shall apply to all land located in the City and all land in the process of annexation into the City, as well as with respect to a major street plan only pursuant to Colorado Revised Statutes 31-23-212 and 213: all land within 3 miles of the City boundaries.

Sec. 11-1-4. Purpose.

The purpose of this Title is to promote the health, safety, convenience, order, prosperity, aesthetics, environmental quality, and general welfare of the present and future inhabitants of Montrose, Colorado. This Title is designed, intended and should be administered in a manner to:

(1) Implement the City's Comprehensive Plan;

(2) Harmoniously relate the development of the land in relation to the existing community and facilitate the future development of appropriate tracts;

(3) Provide for adequate, safe and efficient public utilities, transportation, and pedestrian circulation and improvements; and to provide for other general community facilities and public places;

(4) Provide for light, air, parks, open space, and other spaces for public use;

(5) Provide for protection from fire, flood, geologic hazards and other dangers; and to provide for proper design of stormwater drainage and streets;

(6) Provide that the cost of improvements which benefit the tract of land being developed be borne by the owners/developers of the tract, and the costs of improvements which benefit the entire community be borne by the entire community;

(7) Provide for the preservation and conservation of unique or distinctive natural areas, scenic areas and views, natural landmarks, including rock outcroppings, significant

wildlife habitats and migration areas, drainage areas, riparian areas, wetlands, historic features and archaeologically sensitive sites, recognizing the irreplaceable character of such resources and the importance to the quality of life in Montrose;

(8) Provide for energy conservation and the promotion of the use of solar energy; and

(9) Promote the general health, safety, and welfare of the present and future inhabitants of Montrose.

Sec. 11-1-5. Interpretation.

(A) The interpretation and application of the provisions of this Title shall be regarded as the minimum required for the protection of the public health, safety and welfare and shall be liberally construed to further the purposes as specified in Section 11-1-4.

(B) Whenever a provision of this Title and any other provision found in another City ordinance contain any restrictions or regulations covering the same subject matter, whichever restriction or regulation is more restrictive or imposes a higher standard or requirement shall govern.

(C) The term "shall" is mandatory. The term "may" is permissive.

(D) Words used in the present tense include the future; words used in the singular include the plural; and words of one gender include all other genders, unless the context clearly indicates the contrary.

(E) Reference to "City" shall be interpreted to generally apply to City staff, City Planning Commission and City Council collectively.

(F) It is not intended by this Title to interfere with, abrogate or annul any easements, covenants or agreements between parties; provided, however, that wherever this Title imposes a greater restriction upon the use of buildings or land or upon the location or height of buildings or structures or required open spaces about buildings than are imposed or required by other laws, regulations or by easements, covenants or agreements between parties, the provisions of this Title shall govern.

(G) The City Manager is authorized to make all final interpretations concerning the application of this Title in specific cases, subject only to review in the district court.

Sec. 11-1-6. Effective date; application to developments in process.

(A) Any individual, discrete development application initiated on and after_____, shall be reviewed pursuant to the review process and standards set forth in this Title, as adopted by Ordinance _____. All development applications submitted for review prior to _____, shall be reviewed pursuant to the regulations in applicable portions of former Montrose Municipal Code Title II and applicable chapters and sections in Title IV in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall any resubmission of an application after its rejection, or any development application filed after the effective date of this Title, be reviewed under any such prior regulations.

(B) On the effective date of the ordinance enacting this Title (_____), there exist with the City numerous preliminary and final development approvals of various application types, including rezoning, subdivision, planned development, conditional use and site development. Each of said approvals shall be subject to the requirements of this Title, provided, however, that for the purpose of measuring the time of expiration of such approvals, each such approval shall be deemed to have been issued on the effective date of this Title (_____) provided however, existing preliminary plat and Planned Development approvals shall expire five years after the date of their original approval. It is the intent of this Title that such preexisting approvals, issued prior to the effective date of this Title, not be deprived of the full benefit of the periods of time granted prior to expiration, all as provided herein.

(C) Existing Permits. This Title is not intended and shall not abrogate or annul any permits issued by the City before the effective date of this Title.

Sec. 11-1-7. Severability.

It is declared to be the intention of the City Council that the sentences, clauses and phrases of this Title are severable and if any sentence, clause or phrase of this Title be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of this Title since the same would have been enacted by the City Council without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Sec. 11-1-8. Violation and enforcement.

(A) It shall be unlawful for any person to violate any of the provisions of this Title. Any person convicted of such a violation may be punished in accordance with Section 1-2-3 of the Official Municipal Code of the City. Each day any violation continues shall be considered a separate offense and may, in addition to prosecution in Municipal Court, be abated as a nuisance.

(B) The City may maintain an action in any court of competent jurisdiction to enjoin or abate any violation of the requirements of this Chapter.

(C) Any property, building, or structure existing or maintained in violation of the requirements of this Chapter is hereby declared to be a nuisance which may be abated in accordance with law in addition to prosecution in the Municipal Court.

(D) It shall be unlawful for any person to subdivide any land within the City whether by sale, conveyance, gift, delivery or recording of a plat, deed or other legal instrument or by any other means except in accordance with the provisions of this Title.

(E) The City may withhold building or occupancy permits with respect to any lot or tract of land which has been subdivided in violation of the provisions of this Title.

(F) It shall be unlawful to sell any tract of land, including an entire platted lot or separately described tract, if a violation of the applicable dimensional requirements of this Title will result from such sale by virtue of a change in dimensions of any building site.

(G) The City Manager shall be responsible for the interpretation, administration and enforcement of the provisions of this Title, as amended, the Official Zoning Map, as

amended, and of any decisions entered by the Review Board or the City Council pursuant to this Title.

(H) No building permit, occupancy permit, or other permit or license shall be issued, nor shall any action be taken or allowed by the City which is not in compliance with the provisions of this Title and any decision issued by the Review Board or City Council pursuant to this Title.

(I) Whenever necessary to make an inspection to enforce any of the provisions of this Title, or any provision of a decision entered by the Planning Commission or the City Council, pursuant to this Title, or whenever there is reasonable cause to believe that a violation of any provision of this Title, or any decision issued by the Planning Commission or City Council, pursuant to this Title exists, the City Manager shall have the right to enter upon such building or premises at all reasonable times for the purposes of inspection or to perform any other duty imposed by this Title. Prior to entry they shall identify themselves and request permission to enter from the occupant or person in charge of the premises, if they can be found by reasonable efforts. If entry is refused, the City Manager shall have recourse to any remedy provided by law to secure entry.

(J) The Code Enforcement Officer of the City shall be deemed a peace officer, as defined in Rule 203 of the Colorado Municipal Court Rules of Procedure, for the limited purpose of enforcing the provisions of this Title under the direction of the City Manager. The Code Enforcement Officer shall exercise the authority of a peace officer in the enforcement of these provisions, including the power to issue summons and complaints and initiate prosecution of violations thereof.

Sec. 11-1-9. Fair Housing Act reasonable accommodation.

(A) The federal Fair Housing Act, 42 U.S.C. §3601, et seq., as amended, requires that local governments be prepared to make "reasonable accommodations" in order to permit housing for certain protected individuals to occur in residential areas. In response to a written application identifying the type of housing being provided and the portions of the Fair Housing Act that require reasonable accommodations be made for such housing, the City Manager is authorized to approve modifications to the City's land use and zoning laws, rules, policies, practices and procedures as set forth in this Title.

(B) The City Manager may approve a type of reasonable accommodation different from that requested by the applicant if the City Manager concludes that a different form of accommodation would satisfy the requirements of the federal Fair Housing Act with fewer impacts on adjacent neighborhoods. The decision of the City Manager shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. The decision of the City Manager shall be final for purposes of judicial review.

Sec. 11-1-10. Amendment.

(A) *Requests or Proposals for Amendments.* Requests or proposals to amend this Title may be initiated by City Council, the Mayor, the City Attorney, or the City Manager.

(B) *City Council Hearing.* All amendments to this Title shall be approved only by the passage of an ordinance in the manner prescribed by the home rule charter.

CHAPTER 11-2. PLANNING COMMISSION

Sec. 11-2-1. Creation of Planning Commission.

(A) There is hereby created a Planning Commission to consist of either five or seven members appointed from among the qualified electors of the City by a majority vote of the City Council members present. In addition, by a majority vote of the City Council members present, the Council may appoint alternate Planning Commission members who may be called to sit on the Commission and vote as a member thereof on account of the absence of any regular member. Such alternate members shall become voting members in the order of their seniority of appointment as alternates.

(B) Each Planning Commission member except the Chairperson shall receive compensation of $80.00 per month. The Chairperson shall receive compensation of $100.00 per month. Additionally, members may be reimbursed for authorized expenses.

Sec. 11-2-2. Action by the Planning Commission.

The Planning Commission shall act by majority vote of a quorum present. The Commission shall act to recommend approval, approval with conditions, or denial of the application. A motion to make "no recommendation" shall not be in order; provided however, in the event of a tie vote on a motion to make a recommendation, the result thereby shall be no recommendation. In that event and in the event that the Commission fails to adopt any motion of recommendation, pursuant to Table 1.1 in Chapter 4 of this Title, the application shall move on to the City Council. In the event the application is one for which the Planning Commission is the final decisionmaker, and the Commission fails to adopt any motion, the Commission's decision may nevertheless be appealed to the City Council.

Sec. 11-2-3. Terms of office.

Members of the Planning Commission and alternates, if any, shall serve four-year overlapping terms. Vacancies shall be filled for the remainder of the unexpired term by consent of a majority of the City Council members present. Members of the Planning Commission shall serve at the pleasure of the City Council, and may be removed by majority vote of the City Council members present, with or without cause.

Sec. 11-2-4. Organization; meetings.

The Planning Commission shall elect from its membership a Chairperson, and their term of office shall be for one year with eligibility for re-election. The Commission shall adopt rules for its own organization and for the transaction of business not in conflict with ordinances or laws. It shall also keep a public record of its proceedings. Meetings may be held monthly or more frequently as the Commission deems it advisable.

Sec. 11-2-5. Duties of the Planning Commission.

(A) The Commission shall perform the following duties:

(1) Pursuant to relevant provisions of the City Code, review matters limited to planning, zoning, subdivision, land use and development and make recommendations to the Council for adoption of such amendments.

(2) Promote public interest and education in planning land use and development matters.

(3) Participate in the process for the adoption of a Comprehensive and amendments thereto as described in Section 11-2-6.

(4) Perform other duties as set out in the City Charter and City ordinances or regulations.

(B) The Planning Commission may recommend to Council for adoption bylaws for the conduct of its business consistent with the City Charter and City ordinances and regulations.

Sec. 11-2-6. Comprehensive Plan.

(A) It is the duty of the Commission to prepare a Comprehensive Plan, parts thereof, and amendments thereto, for the physical development of the City, including any areas outside its boundaries, subject to the approval of the County for unincorporated lands, which in the judgment of the Commission bear a relationship to the planning for the City.

(B) The elements of the Comprehensive Plan may be adopted separately, and may include, but are not limited to, the following:

(1) Plans for physical improvements, public projects and facilities;

(2) A major street plan;

(3) A land use plan;

(4) Detailed goals, objectives, guidelines, policies, and implementation steps;

(5) Other plans related to development, land use and environmental protection.

(C) The Comprehensive Plan shall include a recreational and tourism uses element as required by CRS 31-23-206(5).

(D) The Comprehensive Plan shall be made with the general purpose of guiding and accomplishing the coordinated and harmonious development of the City and its environs which will, in accordance with present and future needs, promote the health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire, flood waters and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, the promotion of energy conservation, and the adequate provision of public utilities and other public requirements.

(E) Prior to adoption of the Comprehensive Plan or any element thereof, and after receipt of the Commission's recommendation, the City Council shall hold a public hearing with prior published notice thereof.

(F) Following adoption, the Comprehensive Plan and elements thereof shall serve as a guide to the City Council and City Manager, and shall have such legal status as may be provided by ordinance.

CHAPTER 11-3. HISTORIC PRESERVATION

Sec. 11-3-1. Purpose and intent.

(A) *Purpose.* The purpose of this Chapter is to enhance our community's local resources and to promote the public health, safety and welfare through:

(1) The protection and preservation of the City's architecture, culture and heritage as embodied in designated buildings, structures, sites, objects and districts, by appropriate regulations and incentives;

(2) The enhancement of property values and the stabilization of historic neighborhoods;

(3) The establishment of the City's historic register, listing designated buildings, structures, sites, objects and districts;

(4) The cultivation of civic pride in the art, architecture and accomplishments of the past;

(5) The encouragement of continued private ownership and utilization of such buildings, structures, sites, objects or districts now so owned and used;

(6) The promotion of thoughtful community planning and design;

(7) The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the City; and

(8) The provision of educational opportunities to increase public appreciation of the City's unique heritage.

(B) *Intent.* The intention of this Chapter is to create a reasonable balance between private property rights and the public interest in preserving the City's unique historic character through the nomination of buildings, structures, sites, objects and districts for preservation.

Sec. 11-3-2. Historic Preservation Commission.

(A) *Creation.* There is hereby established an historic preservation commission, which shall be appointed by the City Council, and hereinafter referred to as the "commission."

(B) *Composition.* The commission shall be composed of seven voting members, all of who have demonstrated interest in, competence with or knowledge of preservation. The Council may appoint one alternate historic preservation commission member in the same manner as regular appointments. The alternate historic preservation commission member may be called to sit on the commission and vote as a member thereof on account of the absence of any regular member. Such alternate members shall become voting members in the order of their seniority of appointment as alternates.

(1) At least 60 percent of the members shall be residents of the City.

(2) At least 40 percent of the members shall be professionals or shall have extensive expertise in a preservation-related discipline, including, but not limited to, history, architecture, landscape architecture, American studies, American civilization, cultural geography, cultural anthropology, planning or archaeology.

(C) *Term of Office.* Members shall serve three-year staggered terms from the date of their appointment; provided, however, that the initial appointment to the commission shall consist of one appointment of a term of one year, three appointments of a term of two years and three appointments of a term of three years. Members may continue to serve until their successors have been appointed.

(D) *Officers.* The commission shall, by majority vote, elect one of its members to serve as Chairperson to preside over commission meetings, one member to serve as the Vice-Chairperson and one member to serve as Secretary. The members so designated shall serve in these capacities for terms of one year.

(E) *Quorum and Voting.* A quorum for the commission shall consist of a majority or 51 percent of the members. A quorum is necessary for the commission to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.

(F) *Compensation.* All members of the commission shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset expenses incurred in the performance of their duties.

(G) *Powers and Duties.* The commission shall:

(1) Conduct surveys and create inventories of historic sites, properties, and areas for the purpose of defining those of historic significance.

(2) Review and determine qualifications of buildings, structures, objects, sites and districts nominated for designation and recommend that the City Council designate by ordinance such buildings, structures, objects, sites or districts qualifying for such designation.

(3) Recommend to the City Council the establishment of construction and design standards, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to alter, remove or demolish designated buildings, structures, objects or sites.

(4) Review and make recommendations on any application for alteration, relocation or demolition of a designated building, structure, object, site or district or planning and design project that may affect the character or integrity of the designated property.

(5) Advise and assist owners on physical and financial aspects of preservation, rehabilitation, restoration and reconstruction, including nomination to the City's historic register, the state register of historic properties and the National Register of Historic Places.

(6) Develop and assist in public education programs on history and historic preservation.

(7) Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses and other methods which will implement the completion of the purposes of this Chapter.

(8) Actively pursue financial assistance for preservation-related programs.

(9) Draft and recommend for adoption by the City Council such bylaws, operating policies and other Rules of Procedure as the commission may deem appropriate.

(H) *Meetings.* The commission shall establish a regular meeting schedule with no less than four scheduled meetings per fiscal year.

(1) Minutes shall be kept of all commission proceedings.

(2) All meetings of the commission shall be open to the public.

(I) *Vacancies.* Appointments to fill vacancies on the commission shall be made by the City Council in the same manner as regular appointments.

(J) *Removal.* Members of the commission may be removed by the City Council with just cause.

Sec. 11-3-3. Establishment of City register and designation criteria.

(A) *Established.* The City Council hereby establishes City register of historic places (the City's historic register).

(1) Buildings, structures, sites, objects, hereinafter referred to as "property or properties," or districts may be listed on the City's historic register only if such property or district has been so designated pursuant to this Chapter.

(2) All properties listed on the state register of historic properties and the national register of historic places are eligible for the City's historic register but are not designated until approval, pursuant to this Chapter, is obtained.

(B) *Eligibility Criteria.*

(1) Properties or districts shall be at least 50 years old and meet one or more of the following criteria in order to be considered for designation:

(a) Association with events that have made a significant contribution to history;

(b) Connection with persons significant in history;

(c) Distinctive characteristics of a type, period, method of construction, or artisan;

(d) Geographic importance;

(e) Possibility to yield important information related to prehistory or history.

(2) A property or district may be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.

(C) *Integrity Criteria.* All properties and districts shall be evaluated for their physical integrity using the following criteria:

(1) Location.

(2) Design.

(3) Setting.

(4) Materials.

(5) Workmanship.

(6) Feeling.

(7) Association.

(D) *Historic Districts.*

(1) A district is a geographically definable area including a concentration, linkage or continuity of properties within a specified period of significance. A district is related by a pattern of either physical elements or social activities. Significance is determined by applying eligibility and integrity criteria to the pattern and unifying elements.

(2) District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in property type, density or integrity.

(3) Properties that do not contribute to the significance of the district may be included within the district boundaries.

Sec. 11-3-4. Designation procedure.

(A) *Nomination and Application.*

(1) Applications shall be submitted to the planning department for consideration on a form provided by the commission.

(2) A nomination for designation listing in the City's historic register may be made by:

(a) The owner or owners of the property or properties to be designated;

(b) A member or members of the commission;

(c) A member or members of City Council;

(d) Non-owners of the property or properties to be designated, in which case the applicant must be a resident or owner of property in the City, or have a place of business in the City.

(3) Where nominated by someone other than the property owner or less than all of the property owners in a district nominated for designation, the City or at least one member of the commission shall contact the owner or owners of such property or properties nominated for designation in writing, outlining the reasons and effects of designation on the City's historic register.

(4) Applications determined incomplete shall be returned to the applicant within 30 days with a request for additional information.

(5) Applications for a district nomination shall not be complete if more than 25 percent of the property owners within the proposed district oppose the nomination in writing or though ballot prepared and administered by the City.

(B) *Designation Hearing.*

(1) Within 45 days after an application is determined complete, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the commission.

(a) The Secretary shall provide notice of the date, time and location of the public hearing to the applicant, the owner or owners of record, the owners of adjacent properties and, if known, to other persons having a legal or equitable interest in

the properties or district nominated for designation at least ten days prior to the hearing.

(b) A legal notice indicating the nature of the hearing, the property involved, and the time, date and place of the scheduled public hearing, shall be published in the City's publication of record at least ten days prior to the hearing.

(c) The property shall be posted its physical location at least ten days prior to the hearing.

(2) A hearing may be continued. If the hearing is continued, the time, date and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case, can a hearing be continued more than 30 days without the express consent of the applicant.

(3) Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained in this Chapter shall be construed to prevent the commission from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.

(4) Transcripts of the hearings are not required; however, the commission's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an owner or holder of some interest in the property or district nominated for designation, or represents such owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.

(C) *Commission Review.*

(1) The commission shall review the application for conformance with the established criteria for designation and with the purposes of this Chapter.

(2) The commission shall recommend:

(a) Approval;

(b) Approval with conditions; or

(c) Disapproval of the application.

(d) Such approval may be conditional. The commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.

(3) If the commission approves an application, the commission shall forward the application with a copy of its report and findings of approval to the City Council.

(4) If the commission denies an application, the commission must notify, in writing, the City Council and the applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.

(D) *City Council Proceedings.*

(1) Within 30 days after receipt of the commission's approval of an application, the City Council shall hold a public hearing to consider adopting by ordinance those properties

qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Subsections B(1)(a) through (c) of this Section, except the City Clerk shall perform the responsibilities assigned therein to the Secretary.

(2) The City Council shall review the application for conformance with this Chapter.

(3) The City Council shall, by ordinance, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the commission's recommendations.

(4) The City shall provide a copy of the results of the City Council's final action to the applicant/applicants, senior planner, the chief building official, and any other person who has requested in writing to receive the same.

(E) *Recording of Designation.* Within 30 days of the effective date of an ordinance designating a property or district, for preservation, the City shall record the ordinance with the Clerk and Recorder of Montrose County.

(F) *Records.* The City shall maintain a current record of all designated properties and districts and pending designations.

(G) *Limitation on Resubmission and Reconsideration of Proposed Designation.* Whenever the commission or the City Council disapproves a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application unless the commission or Council has denied based on a request for additional information.

(H) *Appeal of Commission's Denial of Application.*

(1) If the commission denies an application for designation for any reason other than lack of requisite owner consent, the applicant shall have the right to appeal such decision to the City Council by filing a written notice within 15 days after the date of receipt of the commission's denial. Such written notice shall specify the factual and legal basis for the appeal.

(2) Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the City Council.

(3) Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Subsections (B)(1)(a) through (c) of this Section, except the City Clerk shall perform the responsibilities of the Secretary.

(4) The City Council may consider only the notice of appeal, the commission's reasons for denial of the application, and the comments related thereto made during the commission hearing.

(5) If the City Council finds the commission's denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the commission, and if the correct or newly discovered information could, in the opinion of the City Council, change the commission's denial of said application, then the entire matter shall be remanded by the City Council to the commission for its reconsideration.

(6) The decision of the City Council shall be final.

(I) *Amendment of Designation.*

(1) Designation of a property or district may be amended to add features or property to such property or district under the procedures prescribed in this Section.

(2) Upon the commission's decision to amend a designation, the commission shall promptly notify the owners of the property and the City shall cause to be prepared a resolution, including the legal description of the affected property stating notice of the amendment, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

(J) *Revocation of Designation.*

(1) If a special feature on a property or district has been altered beyond repair in such a way so as to negate the features necessary to retain designation, the owner may apply to the commission for a revocation of the designation or the commission shall recommend revocation of the designation to the City Council in the absence of the owner's application to do so. The revocation application shall be reviewed under the same procedures described hereinabove.

(2) Upon the commission's decision to revoke a designation, the commission shall promptly notify the owners of the property and the City shall cause to be prepared a resolution, including the legal description of the affected property stating notice of the revocation, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

Sec. 11-3-5. Alterations to listed properties and districts.

(A) *Requirements.*

(1) Before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any designated property or property within an historic district including non-contributing properties, the property owner must first submit the proposed work to the commission under this Section, as well as apply for any other permits required by the City codes.

(2) The City shall review any building permit application received to determine whether the property is listed or located in a listed district and, if so, the applicant has completed review by the commission as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the City shall process it without further action. If no certificate has been issued or if the City determines that the permit application does not conform to the certificate, the City shall not approve the permit application and shall not issue it until a Certificate of Appropriateness has been issued and the permit application conforms thereto.

(3) No person shall receive a building permit to construct, alter, remove or demolish any building, structure, object or other feature on a site, or element of a district nominated for designation after an application has been filed to initiate the designation of such

building, structure, site, object or district. No such building permit shall be approved while proceedings are pending on such designation.

(B) *Application.*

(1) A request for alteration shall be initiated by the property owner. Such application shall be submitted to the City for consideration on a form provided by the commission. The application shall include anything the City deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the designated building, structure, site, object or district and plans and specifications showing the proposed exterior appearance, with texture, materials, samples of materials and architectural design and detail.

(2) If the City determines the application is complete, the City shall promptly refer the application to the commission. If the City determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.

(C) *Alteration Hearing.* Within 45 days after an application is determined complete by the City, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the commission. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 11-3-4(B)(1)(a) through (c).

(D) *Review Criteria.*

(1) Compliance with any design guidelines adopted by the City and the Secretary of the Interior's standards for the treatment of historic properties.

(2) For non-contributing buildings within an historic district:

(a) Compatibility with the property's current design, materials, features, size, scale and proportion, and massing; or

(b) Compatibility with the district's design, materials, features, size, scale and proportion, and massing.

(3) Infill construction within historic districts shall be differentiated from the old but be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the district and its environment.

(E) *Commission Review.*

(1) The commission shall:

(a) Approve;

(b) Approve with conditions; or

(c) Disapprove of the application.

The commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.

(2) If the commission approves or approves with conditions the application, the commission shall issue and send a Certificate of Appropriateness to the applicant, the senior planner, the building official, and any other person who has requested in writing

to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.

(3) If the commission disapproves the application, the commission shall deny a Certificate of Appropriateness and notify, in writing, the applicant, the senior planner, the building official, and any other person who has requested in writing to receive the same within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.

(4) The commission may issue an order continuing the alteration application process if the commission would like additional information necessary to make a decision. If the hearing is continued, the time, date and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case, can a hearing be continued more than 30 days without the express consent of the applicant.

(5) The applicant may resubmit an amended application or reapply for a building permit that takes into consideration the recommendations of the commission, or appeal the denial to the City Council.

(6) If an application for a Certificate of Appropriateness is denied, no person may submit a subsequent application for the same alteration or construction within one year from the date of the final action upon the earlier application.

(F) *Appeal of Denial of Certificate of Appropriateness.*

(1) If a Certificate of Appropriateness is denied by the commission, the applicant may appeal the denial to the City Council by filing a written notice with the City Clerk within 15 days after receipt of the commission's denial.

(2) Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the City Council.

(3) Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 11-3-4 (B)(1)(a) through (c), except the City Clerk shall perform the responsibilities of the Secretary.

(4) The City Council shall consider the notice of appeal, the commission's reasons for denial of the application, the comments related thereto made during the commission hearing and any evidence it deems relevant to the application.

(5) The City Council shall apply the criteria in Subsection (D) of this Section in making its decision.

(6) The decision of the City Council shall be final.

Sec. 11-3-6. Relocation of historic structures.

(A) *General.*

(1) In addition to the criteria and procedures in Section 11-3-5, the commission will use the criteria of this Section in considering applications for relocating a designated

property or contributing property in an historic district within a designated site or district or relocating a property onto a designated site or district.

(2) Applicants for relocation shall provide:

(a) A professionally prepared estimate of costs of continued maintenance of the property in its current condition, of rehabilitation on site, and of relocation and rehabilitation;

(b) An engineer's or architect's report as to structural soundness;

(c) Professionally prepared estimates of market value of the property in its current location and current condition, of the market value of the property rehabilitated on its current site, of the site once the property is removed as rehabilitated and after demolition; and

(d) Professionally prepared plans for current site.

(B) *Review Criteria.*

(1) For consideration of the original property and site, the commission will review for the following criteria:

(a) Whether the property can be preserved, restored, rehabilitated or reused on its original site to provide for any reasonable, beneficial use of the property regardless of any proposed development plan for the property's site or adjacent properties;

(b) Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation;

(c) Whether the property can be relocated and re-sited without significant damage to its physical integrity; and

(d) Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other City codes and ordinances.

(2) For consideration of the new location, the commission will review for compliance with all of the following criteria:

(a) Whether the building, structure or object is compatible with its proposed site and adjacent properties; and if the receiving site is compatible in nature with the structure proposed to be moved;

(b) The building, structure or object's architectural integrity and its consistency with the character of the neighborhood of the receiving site;

(c) Whether the relocation of the building, structure or object will diminish the integrity or character of the neighborhood of the receiving site; and

(d) If a relocation plan has been submitted and approved by the City, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the property and site preparation and infrastructure connections as described in the code.

Sec. 11-3-7. Demolition of structures.

(A) *General.*

(1) In addition to the criteria and procedures in Section 11-3-5, the commission will use the criteria of this Section in considering applications for demolition of designated properties and contributing properties in an historic district.

(2) Applicants for demolition shall provide:

(a) A professionally prepared estimate of costs of continued maintenance of the property in its current condition, of rehabilitation, and of demolition;

(b) An engineer's or architect's report as to structural soundness; and

(c) Professionally prepared estimates of market value of the property in its current condition, as rehabilitated and after demolition.

(3) If a demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See Section 11-3-8), a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the property has been approved by the City.

(B) *Review Criteria for Total Demolition.* Applicants requesting a Certificate of Appropriateness for total demolition must provide data to clearly demonstrate all of the following criteria:

(1) The property proposed for demolition is not structurally sound, despite evidence of the owner's efforts to properly maintain said building, structure or object;

(2) The property cannot be preserved, restored, rehabilitated or reused on-site to provide for any reasonable, beneficial use of the property regardless of any proposed development plan for the property's site or adjacent properties;

(3) The property cannot be practically moved to another site in the City; and

(4) The applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:

(a) Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur;

(b) Any impact on the historic significance of the structure or structures located on the property and adjacent properties; and

(c) Any impact to the architectural integrity of buildings, structures or objects located on the property and adjacent properties.

(5) In the case of archaeological sites, whether information can be recovered as part of the demolition process.

(C) *Review Criteria for Partial Demolition.* Applicants requesting a Certificate of Appropriateness for partial demolition must provide data to clearly demonstrate all of the following criteria:

(1) The partial demolition is required for the preservation, restoration or rehabilitation of the property; and

(2) The applicant demonstrates that the proposal mitigates to the greatest extent practical, all of the following:

(a) Any impact on the historic significance of the buildings, structures or objects located on the property and adjacent properties; and

(b) Any impact on the architectural integrity of the buildings, structures or objects located on the property and adjacent properties.

Sec. 11-3-8. Alteration exemptions.

(A) *General.*

(1) If an application for a Certificate of Appropriateness is denied, the applicant may request an exemption from such certificate requirement pursuant to this Section.

(2) A request for exemption shall be initiated by the property owner. Such application shall be submitted to the City for consideration on a form provided by the commission.

(3) The applicant must provide adequate documentation and/or testimony to establish qualification for one of the below listed exemptions. The data provided by the applicant must be substantiated by either a professional in an applicable field or through documentation of how the information was obtained. The applicant shall have the burden of proof to establish hardship. The commission may request additional information from the applicant as necessary to make informed decisions according to the applicable criteria for decision-making.

(4) If the City determines the application is complete, the City shall promptly refer the application to the commission. If the City determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.

(5) Certificate of Appropriateness exemptions are granted only to the specific owner and are not transferable.

(B) *Criteria for Exemption.*

(1) *Economic hardship.*

(a) The commission may solicit expert testimony and require that the applicant make submissions concerning any or all of the following information before it makes a determination:

i. Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the conditions of approval set out in Sections 11-3-5 through 11-3-7.

ii. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

iii. In the case of a proposed alteration, the cost of the project proposed by the applicant compared with the changes required by the preservation commission. In the case of a proposed demolition, the estimated market

value of the property in its current condition, after rehabilitation, and after demolition shall be compared, in addition to actual project costs.

iv. Amount paid for the property, the date of purchase or acquisition, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased.

v. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

vi. Any listing of the property for sale or rent, price asked, and any written offers received within the previous two years.

vii. The actual or market value of the land and improvements thereon according to the most recent assessment.

viii. Real estate taxes for the previous two years.

ix. Any proposal for a replacement structure for the property and financial proof of the ability to complete the replacement project.

x. For income-producing property, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years.

(b) The following factors, evidence and testimony are to be considered:

i. The structural soundness of the building or any structures on the property and their potential for rehabilitation.

ii. For investment or income-producing properties; the ability to obtain a reasonable rate of return on the property in its present condition, or in a rehabilitated condition pursuant to the requirements of this Chapter.

iii. For non-income producing properties consisting of owner-occupied single-family dwelling and/or non-income producing institutional properties not solely operating for profit, the ability to maintain or to convert the property to a reasonable institutional use in its present condition or in a rehabilitated condition pursuant to the requirements of this Chapter or the ability to transfer the property for a reasonable rate of return.

iv. The consideration for economic hardship shall not include any of the following:

a. Willful or negligent acts by the owner;

b. Purchase of the property for substantially more than its market value;

c. Failure to perform normal maintenance and repairs;

d. Failure to diligently solicit and retain tenants;

e. Failure to prescribe a rental amount which is reasonable; or

f. Failure to provide normal tenant improvements.

(2) *Undue hardship.* An applicant requesting an exemption based on undue hardship must show that the application of the criteria create a situation that is substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(C) *Decision.*

(1) If the commission deems the criteria of this Section are met, the commission shall issue and send an order of exemption to the City within 30 days.

(2) If the commission deems the criteria of this Section are not met, the commission shall deny the exemption request and notify, in writing, the City and the applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.

(3) The commission may issue an order continuing the exemption process for a period of time not to exceed 90 days from the date of the application if the commission would like additional information necessary to make a decision.

(4) The applicant may resubmit an amended application, reapply for an exemption that takes into consideration the recommendations of the commission, or appeal the denial to the City Council.

(5) If an application for an exemption is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.

(D) *Appeal for Denial of Exemption.*

(1) If an exemption is denied by the commission, the applicant may appeal the denial to the City Council by filing a written notice with the City within 15 days of the date of the receipt of the commission's denial.

(2) Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 11-3-4 (A) (2) (a) through (d), except the City Clerk shall perform the responsibilities of the secretary.

(3) The City Council shall hold a public hearing to consider the appeal, and consider any evidence it deems relevant to the application.

(4) The City Council shall apply the criteria in this Section in making its decision.

(5) The decision of the City Council shall be final.

Sec. 11-3-9. Maintenance.

(A) The City Council intends to preserve from deliberate or inadvertent neglect the exterior portions of designated properties or districts and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee, or occupant of any designated property or such within a district shall fail to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of such property or such within a district on the effective date of the designating ordinance.

(B) No owner, lessee or occupant of any property or such within a district shall fail to comply with all applicable provisions of this Chapter and other ordinances of the City regulating property maintenance.

(C) Before the City's attorney files a complaint in Municipal Court for failure to maintain the designated property or districts, the City shall notify the owner, lessee or occupant of the need to repair, maintain or restore the site, structure or district; shall assist the owner, lessee or occupant in determining how to preserve the property or districts; and shall give the owner, lessee or occupant a reasonable time to perform such work.

Sec. 11-3-10. Unsafe or dangerous conditions exempted.

Nothing in this Chapter shall be construed to prevent any measures of construction, alteration, removal or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the City to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this Chapter, but a certificate is required for permanent construction, alteration, removal or demolition.

Sec. 11-3-11. Incentives.

(A) Any owner of a designated property or contributing property within a designated district under this Chapter may be eligible for economic incentives for the restoration or rehabilitation of that property as provided by the State of Colorado and such additional incentives as may be developed by the commission or the City Council.

(B) The commission shall identify and advise the City Council regarding the implementation of economic incentives for designated properties. The commission shall notify the owners of designated properties of economic incentive opportunities available.

(C) The commission shall make the determination for each request regarding economic incentives.

Sec. 11-3-12. Historic property designation.

The properties located in the City of Montrose, Montrose County, Colorado, are described as follows, to wit:

(1) Montrose, Town of; Block: 87, Lot: 18 through Lot: 24 (Commercial Occurrence 1).

(2) Seligs Addn; Block: 92, Lot: 13 through Lot: 19 Frac Lts 20 and 21 S: 28 T: 49 R: 9 also shown on plat #884035 (Commercial Occurrence 2).

Sec. 11-3-13. Compliance reviews.

Alteration, additions and other changes to the building and structures located on the property will be reviewed for compliance with this Chapter, as currently enacted or hereafter amended.

Sec. 11-3-14. Enforcement and penalties.

(A) No person shall violate or permit to be violated any of the requirements of this Chapter or the terms of a certificate issued pursuant to this Chapter.

(B) Violations of this Chapter are punishable as provided in this Title and may be subject to the following additional penalties:

(1) If any designated building, structure, features on a site or object or such within a district is externally reconstructed, externally altered, added to, relocated or demolished in violation of this Chapter, the commission may order any such building, structure, object or site to be returned to its condition prior to such unlawful construction, reconstruction, exterior alteration, addition or demolition. This may specifically include ordering the reconstruction of a structure that was demolished to replicate as closely as possible the original structure.

(2) If any building, structure or object is erected or constructed on designated property or such within a district, the commission may order any such building, structure or object to be removed or deconstructed.

(3) Alterations to a designated property or district without an approved Certificate of Appropriateness will result in a one-year moratorium on all building permits for the subject property.

(4) Moving or demolishing a designated property or such within a district without an approved Certificate of Appropriateness will result in a five-year moratorium on all moving, demolition or building permits for such property and/or its original location.

CHAPTER 11-4. DEVELOPMENT REVIEW PROCEDURES

Sec. 11-4-1. Compliance.

(A) No building permit, certificates, business or occupation license, or site development plan approval use of which may be subject to the provisions of this Title, shall be issued by any department, agency or board of the City except in compliance with this Title. No land shall be used or occupied, and no structure shall be designed, erected, altered, used or occupied except in conformity with all regulations established in this Title and upon performance of all conditions set forth in this Title.

(B) No person shall subdivide any tract of land which is located within the City except in conformance with the provisions of Chapter 11-5 of this Title.

(C) Building permits shall not be issued for the construction or reconstruction of structures upon any land, or the addition to any building or structure situated on any land, or other improvements requiring a building permit, unless such land is zoned for the use proposed and if required, has been subdivided and platted in accordance with the procedures set forth in Chapter 11-5 of this Title. A whole platted lot is required for compliance with this requirement.

(D) No building permit shall be issued for construction until a site development plan has been approved by the City and further, until there has been compliance with all platting procedures of Chapter 11-5 of this Title.

(E) No person or related entity delinquent in the payment of any money owed to the City, in any amount or for any purpose, including, but not limited to, any delinquent taxes, permit fees, Court fines, cost or judgments, fees, surcharges or assessments, may be granted any City permit, other City discretionary permission or paid any consideration from the City, pursuant to a contractual obligation or otherwise, until payment in full has been received by the City or other financial arrangements are made that are satisfactory to the City Manager.

Sec. 11-4-2. Review process.

(A) All “land development,” as defined at Chapter 11-15 of this Title, must be reviewed and approved in accordance with the review process and standards set forth in this Chapter. Table 4.1, the Review Procedures Chart, establishes the required review steps applicable to different forms of approval. Applicants should refer to the chart to determine which one (1) or more "Approval Requested" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. The specific review process for each stage is set out in detail in the balance of this Title under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

(B) Except as otherwise set forth for administrative review, land development applications are reviewed by both the Planning Commission and the City Council, as shown on the Review Procedures Chart (Table 4.1), below. The Planning Commission reviews an application and

makes a recommendation to the City Council, unless the Commission is the final review body, all as shown on Table 4.1.

(C) For those applications for which the City Manager has authority to review and render an administrative decision, as shown on Table 4.1, the City Manager shall approve, approve with conditions, or deny the application within thirty (30) days of determination that the application is complete.

(D) The applicant shall submit an application upon forms supplied by the City accompanied by the information required by this Title. A single application may contain a request for more than one action. The application shall be accompanied by an application fee in an amount as set by City Council. No formal application need be submitted or fee paid for an amendment or addition to the Official Zoning Map initiated by the City Manager, or City Council.

(E) The number of copies of the required application and associated submission requirements are shown on the relevant application forms. All maps and reports shall bear suitable evidence of the professional qualifications of the person responsible for the preparation of the map or report. Engineering information must be certified by a professional engineer licensed in the state of Colorado. All required documents containing land survey descriptions and topographic maps must be certified by a professional land surveyor licensed in the state of Colorado.

(F) A hearing shall be set before the Planning Commission not sooner than 20 days, nor more than 60 days after receipt by the City of a properly completed application and all other required information.

(G) The order of procedure at the hearing or meeting is recommended to be: (1) staff presentation, (2) applicant presentation, (3) public testimony, (4) applicant and staff response if desired, (5) public testimony closed, and (6) reviewing body deliberation and decision.

(H) The reviewing body shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the City staff, and comments from the public. The burden is upon the applicant in all cases to establish that all applicable criteria for any action are met.

(I) The Planning Commission shall complete its review and make its recommendation to the City Council no later than thirty (30) days from the date of the initial Commission meeting or hearing. The Planning Commission may recommend approval, conditional approval or denial, indicating any particular conditions for approval, and its reasons for a recommendation of denial.

(J) The application must be scheduled for City Council action by the applicant within forty-five (45) days of the date of the Planning Commission action. The City Council may approve, approve with conditions, or deny an application. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Title and any policies or other adopted standards of the City.

(K) In the event the reviewing body recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application

at the first stage. In the event the review stage is before the City Council, the application may not be further processed following a denial. If, in the opinion of the City Manager, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until determined complete in accordance with submittal requirements.

(L) The reviewing body as shown in Table 4.1 may approve the requested action only upon finding that all applicable criteria and requirements of this Title have been met. If it determines that such criteria have not been met, the application shall be denied. The application may be granted upon conditions or limitations which the reviewing body determines are necessary in order to ensure that the applicable criteria are met.

(M) The following chart describes the review process for all land development approvals:

Table 4.1
Review Procedures Chart

Approval Requested	Pre-Application	CR	Referral	Approval			Section Reference
				AD	PC	CC	
Site Development Plan	X	X	X	X			Sec. 11-8-1
Site Development Plan – Large Retail	X	X	X		H	A	Sec. 11-8-9
Annexation	X	X	X		H [1]	H	Sec. 11-4-10
Floodplain Development Permit	R	X		X			Sec. 11-6-3; 11-6-4 (variance)
Mobile Home Siting Permit	R	X		X			Sec. 11-13-2
Mobile Home Park Permit	X	X	X		H	X	Sec. 11-13-4
Travel Home Permit	R	X		X	H	A	Sec. 11-13-7
Travel Home Park Permit	X	X	X		H	X	Sec. 11-13-8
Sign Permit	R	X		X			Sec. 11-10-4
Temporary Use Permit	R	X		X			Sec. 11-7-6 (E)
Conditional Use	X	X	X		H	A	Sec. 11-7-6 (B)
Rezoning (legislative)		X				H	Sec. 11-7-12 (C)
Rezoning (site specific)	X	X	X		H	H	Sec. 11-7-12 (A)
Variance	X	X	X		H	A	Sec. 11-7-13; 11-8-1 (G)
Planned Development (PD)							
Sketch Plan	X	X	X		H		Sec. 11-7-8 (F)
Preliminary PD	X	X	X		H	X	Sec. 11-7-8 (F)
Final PD[2]	X	X	X			X	Sec. 11-7-8 (F)
Administrative PD	X	X	X	X			Sec. 11-7-8 (D)
PD Amendment - Major	X	X	X		H	X	Sec. 11-7-8 (H) (2)
PD Amendment - Minor	X	X	X	X			Sec. 11-7-8 (H) (2)
Subdivision							
Sketch Plan	X	X	X		H		Sec. 11-5-4.
Preliminary Plat	X	X	X		H	X	Sec. 11-5-5.
Final Plat	X	X	X			X	Sec. 11-5-6.
Minor Subdivision	X	X	X	X			Sec. 11-5-3.
Plat Amendment	X	X	X	X			Sec. 11-5-7.

Key

CR:	Completeness Review	H:	Public Hearing Required
CC:	City Council	R:	Recommended; not required
PC:	Planning Commission	X:	Meeting or Action Required
AD:	Administrative Decision	A:	Appeal Permitted

[1] Recommend that initial zoning occur concurrent with annexation; see Rezoning (site specific). PC hearing only required with concurrent zoning action, not on annexation itself.

[2] A Final PD is eligible to apply for vested rights. No other application type is eligible to receive a vested right.

Sec. 11-4-3. Public notice requirements.

A. *Purpose.* The purpose of this Section is to provide procedures for public notice. Public notice serves to inform vicinity property owners, neighborhoods, homeowner's associations, and the community of pending development projects, and the date, time and place of public hearings regarding development projects. It is in the City's and applicant's interest to seek and encourage citizen input regarding development projects and to identify possible impacts and mitigation as deemed necessary. Consistent application of public notice requirements fosters trust and reliability in the review process. This Section establishes uniform standards for public notice requirements.

B. All notices shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration.

C. The requirements of this Section apply only to public hearings required by this title as shown on the Review Procedures Chart, Section 11-4-2, Table 4.1. Where that chart indicates that a public meeting (in contrast to a public hearing) is required, this Section does not apply, and notice of such meeting is subject only to the requirements of the Colorado Open Meetings law, C.R.S. § 24-6-401, et seq. The requirements for public hearing notices are shown below on Table 4.2.

D. Notice of the public hearing shall be given as follows:

(1) *Posted notice.* The applicant shall be advised of the date set for the public hearing. The City shall be responsible to post a sign upon the property affected, easily legible from an abutting street which briefly describes the requested action and time and location of the public hearing. Such sign shall be posted at least 15 days before the public hearing and shall be reasonably maintained until final action is taken by the Planning Commission or City Council.

(2) *Published notice.* At least fifteen (15) days prior to any public hearing which requires published notice, the City shall cause a notice to be published in a legal newspaper which describes the action or actions requested and the property affected. The property shall be described by street address, or relationship to a street with an address or other known landmarks and not by a legal description.

(3) *Mailed notice.* At least fifteen (15) days prior to any public hearing which requires notification by mail, the City shall cause to be sent, by first class US mail, a notice to the owners of any property located within 300 feet of the property affected, to include property across the street. The notice shall be directed to the affected property owners as their names and mailing addresses appear in the official records of the County Assessor as of the date the records were reviewed. If required by the City Manager, a written notice shall also be mailed to relevant neighborhood or homeowner's associations.

E. *Neighborhood Meetings.* An additional method of notice is to provide neighborhood meetings to discuss proposed development projects. Prior to submittal of a proposed development application, an applicant should make a reasonable effort to consult informally with property owners of record adjoining or within 300 feet of the proposed development. The purpose of a

neighborhood meeting is to allow neighborhood residents to communicate directly with the applicant regarding any issues, concerns or comments that they might have regarding the proposed development project. The applicant should provide a place, date and a time of the neighborhood meeting. No fee shall be required for such review or discussions of any plans or data concerning the proposed development application. The City shall not be bound by virtue of any discussions during the neighborhood meeting.

F. *E-Mail Notification.* An optional method of public notice is to provide e-mail notifications. E-mail notifications shall not be required but may be used only to facilitate quick and direct communication to affected property owners, neighborhoods and homeowners' associations. E-mailed notice may be used at the discretion of the City Manager if deemed appropriate but shall not take the place of any required notifications.

G. *Combining Notifications.* Whenever hearings before both the Planning Commission and the City Council are required for the same matter, the public notice required for each may be combined into one notice for purposes of publication, posting and mailing. Mailing, posting and/or publication, as required, must be done at least fifteen (15) days prior to the date on which the earlier of the two hearings is to be held.

H. *Calculating Days.* When calculating the time period for mailing, posting, or publishing a public notice, the day of publication or mailing shall be counted in the total number of days required for the notification period, but the day of the hearing shall not be counted toward the total number of days required.

I. *Public Notice Requirements Chart.* Table 4.2 identifies when public notice is required, either by publishing, posting, or mailing.

Table 4.2

Public Notice Requirements

	Notice Required		
Approval Requested	**Publish**	**Post**	**Mail**
Annexation	**X**		
Conditional Use	**X**	**X**	**X**
Site Development Plan – Large Retail	**X**	**X**	**X**
Mobile Home Park Permit	**X**	**X**	**X**
Travel Home Park Permit	**X**	**X**	**X**
Rezoning *	**X**	**X**	**X**
Variance/Appeal	**X**	**X**	**X**
PD Sketch Plan	**X**	**X**	**X**
Preliminary PD	**X**	**X**	**X**
PD Amendment Major	**X**	**X**	**X**
Subdivision Sketch Plan	**X**	**X**	**X**
Subdivision Preliminary Plat	**X**	**X**	**X**
Vested Rights	**X**		
Key PD Planned Development			

Note: The applicant is responsible for any required notice to mineral estate owners under CRS 24-65.5-101, et seq.

* For legislative rezoning, Sec. 11-7-12 (C) of this Title controls.

Sec. 11-4-4. Preapplication conference.

For each land development approval requested, when required by Section 11-4-2, Table 4.1, the applicant shall attend a pre-application conference with City staff. The required preapplication conference may be waived at the City Manager's discretion. The preapplication conference is intended to allow the mutual exchange of information and development concepts. Topics of discussion may include but not be limited to:

(1) Characteristics of the site and surrounding area, including its location; significant natural and artificial features with particular attention to natural hazard, resource or other special areas; the size and accessibility of the site surrounding development and land use and existing zoning.

(2) The nature of the development proposed, including land uses and their densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of common open space or treatment of public use areas and internal circulation system, including trails and bicycle paths; the total ground coverage of paved areas and structures; and infrastructure considerations such as traffic, access, fire protection, floodplain, and water, sewer, drainage, power, natural gas, and communication utilities.

(3) Community policy considerations, including degree of conformity of the proposed development with the Comprehensive Plan and the nature of the information, technical analysis, reports and certifications which are likely to be required of the applicant.

(4) Any of the required submission requirements contained herein that may be considered inappropriate or not applicable to the proposal in question.

(5) The stages of review and submittal requirements for the proposal.

(6) The desirability of a neighborhood meeting.

Sec. 11-4-5. Determination of completeness; withdrawal of application.

A. The City Manager will review the application for completeness. Complete applications must be submitted at the point of initiation of the land development review process. A separate application is required for each phase of a subdivision or planned development. The application shall include all of the items identified in the relevant application form for the type of approval sought. Incomplete applications will not be scheduled for review until a determination of completeness is issued.

B. An application will be deemed withdrawn if the applicant fails to respond to final staff comments within ninety (90) days (or any extension thereto granted by staff). Upon resubmission by the applicant, such application shall be a new application for all intents and purposes and shall be subject to the same review process as any other new application.

Sec. 11-4-6. Fees.

The Mayor and City Council shall set all application fees related to land development approvals under this Chapter per resolution. All fees shall be paid as set forth in Chapter 3-1 of the City of Montrose Regulations Manual.

Sec. 11-4-7. Application referral.

For each land development approval requested, when required by Section 11-4-2, Table 4.1, City staff shall transmit copies of the application, plans, and appropriate supporting documents to appropriate City departments and outside utilities, service providers and agencies for review and recommendations as determined necessary by the City Manager. A list of all appropriate referral agencies shall be maintained by the City.

Sec. 11-4-8. Duration of approval.

A. Land development approvals shall be valid for the following periods from the date of final approval unless otherwise stated in the record of decision (whether found in a resolution, ordinance or approved motion as reflected in the relevant meeting minutes):

(1) Sketch plan subdivision: 18 months

(2) Sketch Planned Development plan: 18 months

(3) Preliminary plat subdivision: 5 years to record final for all phases

(4) Preliminary Planned Development plan: 5 years

(5) Final plat subdivision: no expiration provided plat is recorded within 6 months of approval, or 12 months if a timely request for extension if made within 3 months

(6) Final Planned Development plan: no expiration provided the final PD is recorded within 6 months of approval, or 12 months if a timely request for extension is made within 3 months

(7) Conditional use: no expiration

(8) Rezoning: no expiration

(9) Site development plan: 3 years

(10) Variance: 1 year

(11) Vested right: 3 years, unless enlarged by final approval per Section 11-4-9.

B. *Recording.* Any final plat, PD or agreement shall satisfy and properly reflect any conditions of approval, and be recorded with the County Clerk and Recorder, if applicable, within six (6) months of the date of approval. The applicant may make a request to the City staff for an extension of time prior to the expiration of the six (6) month recordation period. No extension shall exceed six (6) months.

Sec. 11-4-9. Vested property rights.

A. Article 68 of Title 24, C.R.S. (the "Vested Property Rights Statute") authorizes the creation and protection of vested property rights in certain "site-specific development plans" as the same are designated by the local government.

B. A final PD plan may be treated as a site-specific development plan within the meaning of Section 24-68-102 (4), C.R.S. if and only if the following procedures are met:

(1) A landowner seeking to have the PD plan vested shall submit a written application to the City requesting that the final PD plan be vested in terms of the rights relative to the type and intensity of usage thereof. The application for review and approval of the PD plan for the purpose of vesting the property may only be submitted and received by the City subsequent to the City approval of the preliminary plat concerning that same subdivision.

(2) If the requirements for the PD plan are otherwise met in accordance with all applicable City regulations and specifications, approval of the PD plan shall be deemed to create a vested property right in said plan which shall be subject to the provisions and limitations of C.R.S. §§ 24-68-103, 104 and 105, as may be amended from time to time.

(3) Vested property rights shall include only the final PD plan as approved, and shall not include the sketch plan or preliminary plat thereof, architectural plans, construction plans, variances, conditional uses, public utility filings and other related documents.

Sec. 11-4-10. Annexation.

(A) Annexation of land into the City is governed by the procedures in Colorado Constitution Article II, Section 30 and CRS 31-12-101, et seq. Refer to Chapter 4-1 of the City of Montrose Regulations Manual for the City's Annexation Policy.

(B) Property may be disconnected from the City only and exclusively pursuant to the procedures and within the limitations and conditions set forth in this Section and in CRS 31-12-501 through 31-12-503, inclusive, as amended, which are incorporated herein by this reference pursuant to CRS 31-16-202. The City Council may approve, deny, or impose conditions upon any disconnection.

CHAPTER 11-5. SUBDIVISION REGULATIONS

Sec. 11-5-1. General provisions.

(A) This Chapter, as amended from time to time may be cited and referred to as the City's subdivision regulations.

(B) The purposes of these subdivision regulations are to:

(1) promote and protect public health, safety and welfare;

(2) to encourage the harmonious, orderly and progressive development of land;

(3) to ensure the development of economically sound and compatible neighborhoods;

(4) to require the construction of necessary improvements and utilities;

(5) to ensure safe and convenient circulation of vehicular and pedestrian traffic;

(6) to ensure that parks, open spaces, school sites and land needed for other public purposes are either reserved or dedicated;

(7) to ensure development is in accordance with the requirements of the City's Comprehensive Plan as such may be amended from time to time; and to ensure that new development bears its fair share of the costs of providing improvements and services necessitated by, or resulting from, the development of subdivisions.

Sec. 11-5-2. Major subdivisions.

(A) *New Subdivisions.* A subdivision shall be classified as a major subdivision and governed by this Section when an applicant proposes to create four or more new tracts, lots, or interests; or less than four new tracts, lots or interests if not eligible as a minor subdivision in accordance with Section 11-5-3.

(B) *Resubdivisions or Major Plat Amendments.* Resubdivisions and major plat amendments are reviewed in the same manner as a major subdivision with the same purposes. A major plat amendment is any plat amendment that does not qualify as a minor plat amendment under Section 11-5-3 (C). To the extent that submittal information was submitted as part of the original subdivision proposal and is adequate by current standards, the applicant for approval of a resubdivision or major plat amendment does not need to submit the information again and may reference such submittal information in the new application. The City Manager will determine the technical adequacy of previously submitted information.

(B) *Procedure.* The major subdivision procedure shall consist of three (3) separate phases - sketch plan, preliminary plat and final plat - in accordance with Sections 11-5-4, 11-5-5, and 11-5-6, respectively.

Sec. 11-5-3. Minor subdivisions.

(A) *New Subdivisions.* A parcel of land is eligible for subdivision through the minor subdivision process if it meets all of the following criteria:

(1) The subdivision results in no more than three tracts, lots or interests. See Subsection B (3) below for common interest community subdivisions.

(2) All lots or tracts are adjacent to a dedicated and accepted public street.

(3) The improvements required by these regulations are:

(a) Already in existence and available to serve each lot, or if not yet constructed, are secured as a part of the original subdivision approval.

(b) In commercial zoning districts only, the improvements required by these regulations shall be required only for lots with no existing building on the lot, and such improvements may be deferred until construction of a building on said lot. A Certificate of Occupancy shall not be issued until the improvements required by these regulations for said lot are installed, inspected, and approved by the City. The plans for such improvements shall be reviewed and approved by the City prior to commencement of construction. The plat shall specify what improvements are so required, and may include additional easements, plat notes or restrictions as appropriate to implement these provisions.

(4) Each proposed lot, or tract, will meet requirements of Chapter 7 Zoning without the necessity for any variance and no variance from the minimum lot width, depth, or size required by provisions of Chapter 7 Zoning, has been granted within the three previous years.

(5) No part of the subdivision has been approved as part of a minor subdivision within three years prior to the date of submission of the minor subdivision plat.

(6) No material changes to prior plat notes, restrictions or easements are proposed.

(B) *Common Interest Community Subdivisions.* A common interest community subdivision may be processed as a minor subdivision if all of the following criteria are met:

(1) Meets all applicable conditions of any recorded plat governing the original land subdivision.

(2) Complies with the required City platting conditions in Subsection (A) above.

(3) Complies with the requirements of CRS 38-33.3-101 et. seq. (sublots and common interest community units are not lots for purposes of compliance with this Section).

(4) Is consistent with the representations made by the property owner and/or applicant for subdivision approval which created the lot or tract proposed to be further subdivided as a common interest community subdivision.

(5) Results in a change of ownership or marketing regime consistent with the basis upon which creation of the lot, tract or parcel being proposed for common interest community subdivision was based.

(6) Is consistent with the City's Comprehensive Plan.

(7) Advances the public health, safety and welfare of the residents of the City.

(C) *Minor Plat Amendments.* Previously approved subdivision plats may be amended through the minor subdivision process if they meet the following criteria:

(1) The plat, as amended, reduces the number of lots within the subdivision, i.e., a lot consolidation; or the nature of the amendment is de minimis, e.g., a boundary line adjustment, lot line correction, duplex conversion, easement adjustment, or similar minor plat modification.

(2) All lots or tracts are adjacent to a dedicated public street.

(3) The lots are part of a subdivision plat which has been approved and/or accepted by the City and recorded in the Montrose County Records.

(4) The improvements required by these regulations are already in existence and available to serve each lot, or if not yet constructed, are secured as a part of the original subdivision approval.

(5) Each lot will meet requirements of the applicable City zoning regulations without the necessity for any variance and no variance has been granted within the three previous years. No material changes to prior plat notes, restrictions or easements are proposed.

(D) *Procedure.* Submittals of sketch plans and preliminary plats are not required for minor subdivisions. The minor subdivision application shall conform to all applicable final plat requirements. All fees related to this Section shall be as set forth in Chapter 3-1 of the City of Montrose Regulations Manual. The final plat for a minor subdivision shall contain certification on forms approved by the City to document approval of the plat.

(1) The City Manager may either approve, disapprove or conditionally approve the final plat subject to compliance with any minimum design standards; to dedication of additional right-of-way, easements, open space or park land; or to installation of additional improvements.

(2) Upon approval by the City land use staff, the plat of the minor subdivision shall be submitted in final form on one reproducible Mylar, with all requisite signatures, and also in a digital format acceptable to the City, and compatible with City computer systems.

(E) *Limitation of Eligibility.* Any subdivision not qualifying as a minor subdivision is a major subdivision. For the purpose of interpreting the requirements of this Section, any proposed minor subdivision which is clearly intended to evade the major subdivision regulations or would result in a de facto major subdivision through the combination of previous contiguous and/or consecutive minor subdivisions is not eligible for minor subdivision. A minor subdivision shall only be used one (1) time on a previously unsubdivided parcel of land.

Sec. 11-5-4. Sketch plan.

(A) *Purpose.* Sketch plan review provides an opportunity to determine whether an application will comply with the City's subdivision review and approval criteria, and to address any issues of concern early in the review process. The sketch plan is a conceptual version of the preliminary plat showing the general subdivision layout, access, street and lot pattern, location of parks, open space tracts, trail corridors, and other tracts for utilities or services.

(B) *Review Procedure.* The sketch plan application shall be reviewed by the City in accordance with Section 11-4-2 of this Title. The Planning Commission shall take no formal action at the conclusion of its public hearing on the sketch plan; however, comments by the public

and the Commission shall be reflected in the minutes of the hearing as a part of the record on the application as it moves through the entire review process.

(C) *Review Criteria.* A sketch plan shall comply with the following review criteria:

(1) The proposal shall be consistent with the City subdivision and zoning regulations, standards and other applicable ordinances and regulations and will be reviewed, considering the following at a minimum.

(a) Relationship of development to topography, soils, drainage, flooding, potential natural hazard areas and other physical characteristics;

(b) Availability of water, means of sewage collection and treatment, stormwater drainage, access and other utilities and services;

(c) Compatibility with the natural environment, wildlife, vegetation and unique natural features;

(d) Adjacent streets and traffic flow, including pedestrian access; and

(e) Availability of fire, police and other emergency services protection.

(2) An applicant who intends to immediately develop only a portion of a full tract shall nevertheless submit an informal sketch plan for the entire tract showing their present plans for its eventual development.

Sec. 11-5-5. Preliminary plat.

(A) *Purpose.* The purpose of the preliminary plat is to provide the City with an overall master plan for the proposed subdivision. The preliminary plat is more detailed than the sketch plan and should incorporate the comments and guidance provided during the sketch plan process. It includes the layout of the subdivision and final engineering design, with all bearings, distances and survey monumentation.

(B) *Review Procedure.* The preliminary plat application shall be reviewed by the City in accordance with Section 11-4-2 of this Title.

(C) *Review and Approval Criteria.* A preliminary plat shall comply with the following review and approval criteria:

(1) The plat shall be consistent with the City subdivision and zoning regulations, standards and other applicable ordinances and regulations;

(2) The plat proposes a harmonious development and lot pattern that is compatible with the neighborhood and community;

(3) The lot and development pattern ensures there will be adequate light, air, parks, open space, and other places for public use;

(4) The plat design provides for adequate access to all lots and tracts proposed in the subdivision;

(5) Adequate, safe, and efficient public improvements, utilities, and community facilities and services will be provided with sufficient capacity to serve the subdivision;

(6) A sufficient supply of water is available and sufficient water rights have been dedicated to the City, in conformance with the City's water standards;

(7) The plat design provides for adequate protection from fire, flood, geologic hazards, significant soil constraints, and other dangers, and provides for proper design of stormwater drainage, erosion control, utilities and streets;

(8) The plat design provides for compatibility with unique or distinctive natural areas, scenic areas and views, natural landmarks, significant wildlife habitats and migration areas, drainage areas, riparian areas, wetlands, historic features and archaeologically sensitive sites, recognizing the irreplaceable character of such resources and their importance to the quality of life in Montrose; and

(9) The preliminary plat and proposed improvements shall comply with all requirements of this Chapter, other applicable City design and construction specifications and standards and all applicable County, State, and Federal Regulations.

(D) *Notice to Proceed.* No construction of the required subdivision improvements shall commence until approval of the preliminary plat by the City Council and submittal of both a Mylar of the preliminary plat, as finally approved with signed certificates as required by the City, and a copy of the preliminary plat in a digital format acceptable to the City and compatible with City computer systems. Upon approval and submittal of the Mylar, and supporting documentation as required, the City shall then issue a written notice to proceed.

Sec. 11-5-6. Final plat.

(A) *Purpose.* The purpose of the final plat is to complete the subdivision of land in conformance with all the applicable requirements and standards of the City. The final plat shall correspond in every significant respect with the preliminary plat as previously approved. A complete review is conducted of the final subdivision design, with all bearings and distances, survey monumentation, and certificates of approval included on a document suitable for recordation.

(B) *Review Procedure.* The final plat application shall be reviewed by the City in accordance with Section 11-4-2 of this Title.

(C) *Review and Approval Criteria.* A final plat shall comply with the following review and approval criteria:

(1) The plat shall be consistent with the City subdivision and zoning regulations, standards and other applicable ordinances and regulations;

(2) The plat proposes a harmonious development and lot pattern that is compatible with the neighborhood and community;

(3) The lot and development pattern ensures there will be adequate light, air, parks, open space, and other places for public use;

(4) The plat design provides for adequate access to all lots and tracts proposed in the subdivision;

(5) Adequate, safe, and efficient public improvements, utilities, and community facilities and services will be provided with sufficient capacity to serve the subdivision;

(6) A sufficient supply of water is available and sufficient water rights have been dedicated to the City, in conformance with the City's water standards;

(7) The plat design provides for adequate protection from fire, flood, geologic hazards, significant soil constraints, and other dangers, and provides for proper design of stormwater drainage, erosion control, utilities and streets;

(8) The plat design provides for the preservation and conservation of unique or distinctive natural areas, scenic areas and views, natural landmarks, including rock outcroppings and unique landforms, significant wildlife habitats and migration areas, drainage areas, riparian areas, wetlands, historic features and archaeologically sensitive sites, recognizing the irreplaceable character of such resources and their importance to the quality of life in Montrose; and

(9) The final plat is generally consistent with the preliminary plat, as applicable.

(D) *Additional Provisions.*

(1) No land shall be subdivided, or any parcel thereof sold or conveyed, until a final plat has been approved and either a Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion has been issued in accordance with this Section.

(2) Any conditions or improvements imposed on the applicant by the City Council under the preliminary plat approval must be shown on the final plat and either completed, or accompanied by the appropriate security under Section 11-5-12, prior to approval by the City Council.

(3) The final plat may be submitted for a portion of the preliminary plat, or phased, subject to the following conditions:

(a) The applicant has submitted a phasing plan that has been approved by the City.

(b) All required improvements, utilities and road infrastructure must be accessible to the remaining aggregate of unsubdivided land, or outlot.

(c) In instances where completion of required improvements, utilities or road infrastructure within the outlot is determined by the City to be necessary as a condition of approval of that final plat, the developer shall be required to complete said improvements, utilities or road infrastructure upon approval of that final plat. This may include, but not be limited to, completion of necessary road infrastructure, stormwater drainage system, trails and park development.

(d) In instances where the dedication of land for public purposes within the outlot is determined by the City to be necessary as a condition of approval of that final plat, the developer shall be required to dedicate said lands upon approval of that final plat. This may include, but not be limited to, the dedication and development of land for parks, trails, open space, rights-of-way and easements.

(4) No final plat shall be approved by the City Council until:

(a) All of the improvements required by these subdivision regulations have been installed, inspected and approved by the City Engineer, or properly secured in accordance with the provisions of Section 11-5-12 on forms approved by the City.

(b) As-built plans, supporting documentation, certificates and data for completed utility improvements have been provided, reviewed and accepted by the City Engineer, and also provided in a digital format acceptable to the City and compatible with City computer systems. All as-built plans, supporting documentation, certificates and data for completed utility improvements shall be signed and stamped by a licensed professional engineer.

(c) The final plat has been submitted in final form on reproducible Mylars, with all requisite signatures, and also in a digital format acceptable to the City, and compatible with City computer systems.

(d) Payment to the City of any atypical costs incurred by the City within the subdivision review process, which costs are specifically subject to reimbursement.

(e) The security for the two-calendar year construction warranty has been provided by the subdivider in a form acceptable to the City.

(5) Following City Council approval of the final plat and verification that the documentation has met all applicable codes and regulations, the final plat shall be executed by the appropriate City staff and recorded with due diligence.

Sec. 11-5-7. Administrative review hearing.

(A) Upon City Council final action concerning either preliminary plat or final plat, the subdivider may request, in writing and submitted to the City within 30 days of said final action, with appropriate fees paid as set forth in Section 3-1 of the City of Montrose Regulations Manual, an administrative review hearing before the City Council.

(B) The administrative review hearing shall be limited to review of:

(1) Denial of the plat;

(2) Minimum standards and/or conditions imposed as a requirement of approval of the plat.

(C) The hearing shall be conducted on record, and the Council shall prepare and submit to the subdivider a written summary of its findings and decision in the matter.

Sec. 11-5-8. Issuance of building permits.

(A) Until any required public improvements are accepted by the City, the City shall not be obliged to issue any building permits within a subdivision, except as provided herein. Provided that all other applicable City codes and regulations have been satisfied, building permits may be issued only to the subdivider for any property with an approved Preliminary Plat. The subdivision must have sufficient access and water to allow for adequate fire protection as determined by the fire protection district. No certificates of occupancy, temporary or otherwise, shall be issued unless and until:

(1) All public and necessary on- and off-site improvements have been completed;

(2) A Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion has been issued by the City; and

(3) A final plat has been approved and recorded.

(B) A Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion shall evidence City inspection and approval.

(C) The two - calendar year Construction Warranty shall begin to run from the date of said Preliminary Letter of Infrastructure Completion.

Sec. 11-5-9. Land dedication.

(A) All property and easements dedicated to the City on any plat shall become property of the City upon execution of the plat, free and clear of all mortgages, liens and encumbrances.

(1) Prior to the recordation of the final plat, the subdivider shall provide written evidence to the City Attorney that the title to lands underlying the improvements is free and clear from all liens and encumbrances, except those items or encumbrances that may be approved in writing by the City Attorney.

(2) All dedicated improvements shall be subject to the two calendar year construction warranty, as provided above.

(B) *Parks, Open Space and Trails.*

(1) For all new residential developments requiring subdivision, the owner shall pay money in lieu of park land dedication as determined by the City to be necessary or required, to defray the cost of and provide parks and open space as calculated below.

(2) Those developments that dedicate adequate quantities and qualities of park land acceptable to the City, in the City's sole discretion, shall not be required to pay the money in lieu of park land dedication. Only park land dedicated to the City of Montrose, and approved by the City, in the City's sole discretion, that meets the City's parks, trails, and open space plan, or the City's Comprehensive Plan, the minimum design standards as set forth herein, and that is improved to meet the City's park standards and specifications, shall qualify to relieve the subdivider of payment of money in lieu of park land dedication.

(3) When in-lieu payments are permitted, the following standards apply:

(a) Lot or Unit x 0.0175 (acres park land per lot or unit) x $90,000.00 (value per developed park land acre, based upon $25,000.00 per acre undeveloped land value plus $65,000.00 park land development cost) = $1,575.00 per lot or unit.

(b) Monies collected in lieu of park land dedication shall be collected at time of issuance of building permit, and placed into a City park development fund to be earmarked for future acquisition or development of parks, opens space, or trails. No security as set forth in Section 11-5-12 shall be required.

(4) Monies paid in lieu of park land dedication pursuant to this Section are to enable the City to provide parks in the proper locations, and of the proper sizes to serve the citizens of the City.

(5) Private open space or recreation areas shall not be a substitute for the dedication of park land, or money in lieu of park land dedication.

(6) All non-public common areas, parks and open spaces shall be held in private ownership and maintained in perpetuity, with appropriate platted restrictions on use and covenants

for ownership and maintenance in accordance to the provisions of Section 11-5-11 (B). All non-public common areas shall be located, constructed and installed in compliance with plans as reviewed and approved.

(7) For the purposes of these provisions, developed park land shall require prior submittal and approval of a park plan by the City, which plan shall address the City's park standards and specifications.

(8) When authorized by the City, the required dedication of developed park land may be partially or wholly substituted by alternative dedication and/or preservation of open space areas such as riparian habitat, wetlands habitat, wildlife habitat and view corridors as approved by the City.

(9) Parks that are sized, developed, and located to meet the needs of the City and constructed in accordance with City standards and specifications may be dedicated to the City, and if so dedicated, shall be available for use by the public.

(10) Consistent with the City's Comprehensive Plan, subdividers shall dedicate to the City developed park land based upon a formula of seven acres of developed and usable park land per density of 1,000 residents, calculated at build-out of the proposed subdivision. For the purpose of this calculation, it shall be assumed that each residential unit shall house 2½ residents.

(11) Sidewalks and recreation trails shall be integrated with existing and planned sidewalks and recreation trails in accordance with the City's parks, trails and open space plan or Comprehensive Plan. The owner of each project shall dedicate the appropriate easements and/or rights of way consistent with said plans.

(12) Unless otherwise authorized, all sidewalk and recreation trails shall be available for use by the public and shall be dedicated to the City.

(13) Natural watercourses may be developed and preserved consistent with City floodplain management regulations, Storm Drainage Requirements and Federal Clean Water Act Section 404 Permit requirements, to minimize safety, environmental, and other hazards, and shall be integrated with the City's Comprehensive Plan for such watercourses whenever feasible. Parks, open space and trails shall be situated within floodplains instead of developed lots when reasonable to do so.

(C) *School Land Dedication.*

(1) The subdivider shall dedicate to the City land for development of school based upon the below formula of 17.83 acres of vacant land per density of 1,000 units or lots, calculated at build-out of the proposed subdivision. This is based upon an average of 0.64 students per residential unit.

(2) All of the dedicated land shall be of a singular parcel, shall meet the minimum size requirements for the intended use, and shall be suitable for construction of school facilities. The RE-1J School district shall review the subdivider's request to dedicate land or pay cash-in-lieu of land dedication, and shall provide its recommendation to the City land use staff accordingly.

Elementary school	15 acres
Middle school	30 acres
High school	55 acres

(3) For those subdivisions where the dedication of school land is not practicable, such as subdivisions involving small land area, or where the area of the land is not suitable or sufficient for the purposed construction of school facilities, the City shall require a money-in-lieu-of payment equal to the value of the property otherwise developed and dedicated in accordance with these provisions. The value of the property shall be based upon Montrose County Land Values, as adjusted from time to time, and calculated in Table 5.1 as follows:

Table 5.1

School Land Cash-In-Lieu Calculation

School	Student/Lot	Acres/Student	Dollars/Acre	In-Lieu Fees
Elementary	.294	.033	$25,000.00	$243.00
Middle	.154	.067	$25,000.00	$258.00
High	.192	.037	$25,000.00	$178.00
TOTAL				$679.00

(4) Monies collected in lieu of school land dedication shall be collected at time of issuance of building permit (or Certificate of Occupancy for those buildings commenced prior to final plat approval) and placed into a school land fund to be disbursed to the RE-1J school district on a quarterly basis. No security as set forth in Section 11-5-12 shall be required.

(5) When possible, the requirement for money in lieu of dedication shall be noted as a plat note on the final plat of the subdivision, or within the recorded declaration of covenants for residential development not requiring subdivision, such as mobile home parks.

(6) The following shall be exempted from school land dedication requirements or payment-in-lieu-of fees:

(a) Skilled nursing facilities as defined in the Section 11-15-11 of this Title;

(b) City-approved subdivisions that are subject to recorded covenants restricting the age of the residents of said dwelling units such that the dwelling may be classified as housing for older persons pursuant to the Federal Fair Housing Amendments Act of 1988;

(c) Residential zoning uses that do not accommodate permanent residential housing. Said developments shall be required to record a covenant running with the land, prohibiting permanent residential housing therein, in a form acceptable to the City, if a waiver of the fee in lieu of school land dedication is requested.

Sec. 11-5-10. Required improvements.

(A) All subdivisions shall be provided, at the expense of the subdivider, and subject to applicable zoning criteria, with the following public improvements as required to serve the subdivision and to mitigate its impacts.

(1) Street improvements:

(a) Paved streets;

(b) Paved alleys, if required by the City;

(c) Street signs;

(d) Street lights; and

(e) On- and off-site traffic mitigation improvements.

(2) Curbs, gutters, sidewalks and accessibility ramps.

(3) Blocks and lots.

(4) Parks, open space and recreation trails.

(5) Public utilities.

(a) A water system including fire hydrants and fire mains;

(b) A sanitary sewer system;

(c) A stormwater system; and

(d) Other public utilities, including if available, gas, electricity, telephone, and CATV.

(6) Piped drainage facilities and waterways.

(7) Survey monuments.

(8) Berms, screening and buffers, if applicable.

(9) Off-street parking, mailbox location areas and bus stops, if applicable.

(B) Other improvements required as a condition of approval and found to be roughly proportional to the impacts being mitigated. All public improvements shall be subject to applicable City minimum design standards, regulations and specifications.

Sec. 11-5-11. Private improvements.

(A) The subdivider may provide, at his expense, certain private improvements, as specifically referenced below, to serve the subdivision and to mitigate its impacts, and in accordance with duly adopted City standards, if applicable, to include:

(1) Recreational facilities, parks, open space and trails;

(2) Piped drainage facilities and waterways;

(3) Mail box location areas;

(4) Berms, screening and buffers; and

(5) Other private improvements required as a condition of approval.

(B) Such improvements shall be privately-owned and/or -maintained, and the plat shall contain appropriate restrictions and/or covenants governing use, ownership and maintenance in perpetuity enforceable by the City, providing for recovery of the City's costs by liens or assessment against the property in the subdivision. Such improvements shall be completed or secured similar to public improvements prior to final plat approval.

Sec. 11-5-12. Warranty and acceptance of improvements.

(A) If the subdivider wishes to have the final plat approved prior to the installation, inspection and approval of all required improvements, the subdivider must provide security incorporated into a subdivision improvement agreement to guarantee the completion of all improvements within two calendar years after approval of the final plat in accordance with this Section.

(1) Said security shall be in the form of:

(a) A subdivision lien agreement placing an adequate lien upon the lots of the subdivision, with an escrow account with the City into which the subdivider shall pay, prior to the sale of any lot within the subdivision, an amount to be verified by the City Engineer equal to 150 percent of the pro rata cost to complete the subdivision improvements necessary to serve that lot; or

(b) A cash escrow deposited with the City or a clear irrevocable letter of credit in an amount to be verified by the City Engineer equal to 150 percent of the pro rata cost to complete the subdivision improvements necessary to serve that lot.

(2) Funds in any escrow account shall be returned to the subdivider upon the issuance of either a Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion, depending on the circumstances.

(3) Security shall not be required for money in lieu of payments relative to park land and school land dedications provided in Section 11-5-9 (B) and (C), as such money payments shall be collected upon issuance of building permits relative to subdivided lots or units.

(4) Even though a final plat will have been recorded, when a subdivider chooses to secure public and necessary on- and off-site improvements with a subdivision improvement agreement, the subdivider shall agree not to sell, transfer, offer for sale or otherwise convey any portion of the property, including lot, unit or outlot, prior to the issuance of a Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion, depending on the circumstances. A sale or other transfer of the entire subdivision will be possible once the purchaser has provided the necessary security.

(B) The subdivider shall complete all necessary on- and off-site improvements within two calendar years of the approval of the final plat by the Council. In the event that all necessary on- and off-site improvements are not completed, inspected and approved within two calendar years of the date of the approval of the final plat by the Council, no further building permits, occupancy permits, water taps or sewer taps shall be allowed by the City

in such subdivision until such improvements are completed. It shall then be unlawful to sell any further lots in the subdivision until all necessary on- and off-site improvements are completed.

(C) The City Council may authorize extensions of time to complete all improvements beyond the two year limitation as set forth herein.

(D) Following the completion of any required improvements and submission of the as-built plans, the City Engineer shall conduct an inspection and if the improvements are in accordance with the requirements of these and other applicable regulations and good engineering and construction standards, shall issue a Preliminary Letter of Infrastructure Completion as provided herein.

(1) A letter of substantial completion may be issued when only landscaping and irrigation facilities are incomplete and secured as provided in Subsection 11-5-12 (A) of this Section.

(a) In the case of subdivisions that have been issued a letter of substantial completion, upon completion of the outstanding improvements and submission of the as-built plans therefor; the City Engineer shall conduct an inspection and shall issue a Preliminary Letter of Infrastructure Completion, if all public and necessary on- and off-site improvements are in accordance with the requirements of these and other applicable codes and regulations and good engineering and construction standards.

(2) The subdivider shall warrant the improvements against defects or failures in workmanship or materials for a period of two calendar years from the date of the Preliminary Letter of Infrastructure Completion. During this two calendar year construction warranty period, the City will, as applicable, assume the responsibility for snow removal in regard thereto, but the subdivider shall remain responsible for all other maintenance and to correct all defects or failures that appear in any such public improvements during the construction warranty period.

(a) The City shall determine what constitutes a defect or failure in its sole discretion, provided that such are not the result of public abuse, misuse or normal wear from use. The City Engineer shall notify the subdivider in writing of such defect or failure, setting forth a list of specific deficiencies. If within 30 days after the City has notified the subdivider of a defect or failure, the subdivider has not started or completed the required repairs, provided construction drawings and a proposed repair schedule for City review and approval, or submitted a written objection to the to the City's request for repair work, the City is hereby authorized to make the repairs or replacements or to order the work be done by a third party. The City may authorize a temporary repair if necessary due to weather conditions or materials availability. The subdivider shall pay the cost of any repair work. Any appeal of the City Engineer's repair or replacement requirements shall follow the appeal process pursuant to Chapter 4-1-6 of the City Code.

(b) At the end of two calendar years from the date of issuance of the Preliminary Letter of Infrastructure Completion, the subdivider shall request, in writing, that

the City Engineer perform a final inspection of the improvements to facilitate the completion of the construction warranty.

(i) The City Engineer shall conduct an inspection of all public and necessary on- and off-site improvements, and upon final approval, as evidenced by the City's issuance of a Letter of Infrastructure Completion and acceptance, the City shall accept the improvements, and the security held by the City shall be returned to the subdivider.

(ii) All public and necessary on- and off-site improvements, including all physical facilities constructed by the subdivider necessary for the extension, maintenance and repair of municipal utility services and other public facilities constructed by the subdivider in public rights-of-way, easements, streets or alleys shall become the property of the City immediately upon the issuance of the Letter of Infrastructure Completion and acceptance by the City Engineer.

(iii) Following such conveyance, the City shall be solely responsible for the maintenance of such public improvements, unless otherwise provided for by agreement, except for any correction work required during the warranty period.

(c) Any repairs or replacements noted in the final inspection shall be completed prior to the issuance of the Letter of Infrastructure Completion and acceptance.

(i) Upon notification, the subdivider shall promptly make all repairs or replacements in accordance with a repair plan prepared by the subdivider and approved by the City, which repair or replacement, in the opinion of the City, arose out of defects or failures and became necessary during the construction warranty period.

(ii) The subdivider shall warrant each repaired and/or replaced improvement or any portion or phase thereof for one calendar year following acceptance of such repair and/or replacement.

(iii) Inspection of any improvements does not constitute a waiver by the City of any rights or remedies that it may have on account of any defect in or failure of the improvements that are detected. The construction warranty shall continue until the Letter of Infrastructure Completion and acceptance is provided in writing to the subdivider.

(3) The City shall require a construction warranty backed by financial security prior to issuance of a Preliminary Letter of Infrastructure Completion.

(4) The subdivider may, at the subdivider's option, provide the City financial security for the two calendar year construction warranty in one or a combination of the following forms only:

(a) A cash escrow in the amount of 15 percent of the total construction cost of all public and necessary on- and off-site improvements required by the final plat.

(b) A letter or letters of credit on forms acceptable to the City, in the amount of 15 percent of the total construction cost of all public and necessary on- and off-site improvements required by the final plat.

(c) It is the responsibility of the subdivider to maintain the necessary amount of security at all times until all public and necessary on- and off-site improvements are completed and accepted by the City.

(d) The City shall not be obligated to administer burdensome security arrangements.

(5) The security shall be available for the City to use to correct any defects or failures in accordance with City specifications during or after the two-year construction warranty period in the event the subdivider is unable or unwilling to perform any repair or replacement of the improvements in a timely fashion. The use of the proceeds from the security is a remedy that is cumulative in nature and is in addition to any other remedies that the City has at law or in equity.

Sec. 11-5-13. Minimum design standards.

(A) *Minimum Standards, Conformity to Preliminary Plat, and Approval Required.* All public improvements shall be constructed in accordance with the minimum standards set forth below or other applicable City design and construction specifications and standards, and other applicable City ordinances or regulations. All public and private improvements shall be in substantial conformity with the preliminary plat as approved, the City Comprehensive Plan and amendments thereto, and in accordance with good engineering and construction practices. All plans must be approved in advance by the City Engineer.

(B) *Minimum Standards.*

(1) *Streets.*

(a) Subdivider shall be required to make and install improvements to existing streets within and abutting the subdivision and/or other areas outside the subdivision or any filing thereof being considered, including, but not limited to, curbs, gutters, sidewalks and street paving improvements, when the subdivision and developments thereof will directly create a need for said improvements outside the subdivision itself, or a need to expand or improve existing public improvements to current standards in order to properly serve future residents of the subdivision, or if the subdivider or their predecessors of interest by virtue of their actions and the timing and scope of developing the subdivision or other property have created a situation where the needed improvements were not previously improved or installed. It shall be presumed that existing streets and sidewalks directly abutting the subdivision must be improved to current City standards in order to properly serve the subdivision.

(b) In those cases where the City determines that the immediate improvement of the abutting street, or other on-site or off-site improvements, is not currently practical, or should be delayed, or the costs of such improvements should be shared with additional property likely to use and be benefited by the improvements, the developer may be allowed to execute recordable covenants on the plat or

separately in a form provided by the City, binding the lots in the subdivision to future assessments or participation in an improvement district for the construction of such improvements.

(c) Wherever topography will permit, the arrangement of the streets shall provide for the dedication and construction of street stubs to align with existing or future streets to adjoining developing or developable areas.

(d) Cul-de-sacs shall terminate in a circular turn-around having a minimum right-of-way of at least 100 feet in diameter, and a paved turn-around with a minimum outside diameter of 80 feet. Cul-de-sacs shall be not less than 100 feet long, and not more than 500 feet long, as measured from the center of the cul-de-sac bulb to the center of the intersecting street; use of cul-de-sacs is limited to places where street connections would be impractical.

    (i) Cul-de-sacs longer than 300 feet shall require a recreation trail connection at the end that provides connectivity to the nearest City street.

(e) Temporary dead-end streets which extend for a distance greater than the depth of one abutting lot shall be provided with a temporary turn-around having a diameter of at least 80 feet.

(f) Whenever a new street is proposed along the edge of the subdivision, the entire street shall be dedicated and improved within the subdivision.

(g) No more than two streets shall intersect at any point. Intersections shall be as near as practicable to 90 degrees. A street shall have a minimum straight distance of 100 feet from the intersection before it may be curved.

(h) A straight section of 100 feet shall be provided between reverse curves on all streets.

(i) All lots in the subdivision will have direct access to a dedicated street, subject to the following exceptions:

    (i) One or more private shared access drives may be used to provide access up to no more than four dwelling units each, subject to City approval, in residential zoning districts. In general, shared access drives shall not be used as an extension to a cul-de-sac.

    (ii) Reciprocal access easements may be approved to accommodate subdivisions with multiple commercial units with contiguous parking area in commercial zoning districts.

(j) Any two local streets which intersect a common third local or collector street shall have centerlines no closer than 175 feet from one another. Any two local streets which intersect a common third minor arterial or major arterial street, shall have centerlines no closer than 350 feet from one another.

    (i) The City may limit access to major arterial or minor arterial streets to facilitate traffic flows, or to promote public safety.

(k) The maximum block length, as measured from the centerline of the nearest intersecting streets, shall be a maximum of 700 feet.

(l) Street names must be approved by the City.

(m) All streets, alleys, sidewalks, recreation paths, parks of two acres or larger, and other public ways or places must be dedicated to the City by the owners of any interest therein except the owners of severed mineral or water interests.

(n) Streets shall be developed in accordance with the City's Comprehensive Plan roadway cross sections, the City's engineering specifications, as applicable, and the table below. The minimum dedicated rights-of-way and street widths shall be as shown in Table 5.2.

Table 5.2

Minimum Dedicated Rights-Of-Way and Street Widths

Street Classification	**Minimum Right-of-Way**	**Minimum Street Width Urban = Width between Curb Flowlines Rural = Paved Width (asphalt or Concrete)**
Major Arterial—Urban	124 feet *	92 feet ***
Major Arterial—Rural	124 feet *	76 feet ***
Minor Arterial—Urban	112 feet **	Varies with traffic volume and whether parking is allowed, see engineering specifications for road widths ***
Minor Arterial—Rural	112 feet **	Varies with traffic volume and whether parking is allowed, see engineering specifications for road widths ***
Collector	70 feet	46 feet
Local—Boulevard Style Alternative 2	50 feet; 50 feet	28 feet with detached 5-foot sidewalk; 36 feet with attached 6-foot sidewalk
Planned Developments	40 feet	24 feet with attached 6-foot sidewalks in addition to curb and gutter. Supplemental off-street parking may be required.
* ROW width shall be increased by ten feet within 500 feet of an arterial cross street intersection to allow a double left turn lane.		
** ROW width shall be increased by 12 feet within 500 feet of an arterial cross street intersection to allow a double left turn lane.		
***The decision whether to require urban or rural street widths shall be made at sketch plan review.		

(o) Subdivisions which include any part of an existing platted street which does not conform to the minimum right-of-way requirements of these regulations may be required to provide additional width necessary to meet the minimum right-of-way requirements of these regulations.

(p) No street grade shall be less than one-half of one percent (0.5 percent) or exceed the maximum grade shown in Table 5.3.

Table 5.3

Maximum Street Grade

Street Classification	**Maximum Percent Grade**	**Minimum Radius of Curve**	**Minimum Sight Distance***
Major Arterial	5 percent	400 feet	500 feet
Minor Arterial	5 percent	400 feet	500 feet
Collector	8 percent	300 feet	300 feet
Local	8 percent	100 feet	200 feet
*As measured between points four feet above the centerline of the street.			

(q) Alleys shall be provided at the rear of lots within the commercial zoning districts, or as otherwise approved by the City. Alleys shall be 20 feet in width and shall be paved in accordance with City specifications.

(2) *Curb, Gutter, Sidewalks and Trails.*

(a) Curb, gutter, and sidewalks or recreation trails shall be provided along all roadways consistent with the City's Comprehensive Plan.

(i) A minimum ten-foot-wide concrete recreation trail with the addition of two-foot obstacle-free recovery zones, constructed of Class 6 gravel aggregate, or a City-approved alternative, on each side of said trail shall be located along one side of the roadway, as determined by the City. Recreation trails shall be designed in accordance with the AASHTO "Guide for the Development of Bicycle Facilities."

(ii) A minimum six-foot-wide sidewalk shall be provided on the side of the roadway not occupied by the recreation trail described above. Greater sidewalk widths may be required in commercial areas.

(iii) Recreation trail lighting may be required in more heavily populated or urbanized areas, travel corridors, and commuter routes, as determined by the City. Recreation trail lighting shall provide a minimum 0.4 to 0.5 footcandles of illumination at all points along the length of the trail. The City's provisions, standards, and specifications regarding outdoor lighting shall also apply.

(iv) Recreation trails with alternative non-hard surfaces and narrower widths may be approved in those instances where such trails are secondary to existing or proposed concrete recreation trails, and do not serve as connectors to the City's recreation trail system, as denoted within the City's Comprehensive Plan.

(v) Curb, gutter, and sidewalks shall be provided along collector and local streets. Six-foot detached sidewalks are required on collector streets. Five-foot detached or six-foot attached sidewalks are required for local streets.

(b) Sidewalks shall be located and constructed as necessary to interconnect the subdivision and lots therein with the network of City sidewalks and recreation trails.

(c) Accessibility ramps shall be provided in accordance with the Americans with Disabilities Act.

(d) The City may elect to require over-sizing of any sidewalk and participate in cost sharing thereof.

(e) The City may require any sidewalk to be wider than those standards set forth herein, upon a finding that such greater widths are necessary to serve the subdivision, due to:

(i) High density of the subdivision;

(ii) Special needs of the residents of the subdivision; or

(iii) Connection to existing wider sidewalks or recreation trails.

(3) *Blocks and Lots.*

(a) In residentially zoned districts, blocks shall be wide enough to permit two lots between lengthwise streets.

(b) The building line for residential lots on collector streets shall be set back 25 feet from the front property line.

(c) The building line on corner lots shall be set back 25 feet from both street front property lines.

(d) Lots which abut a street in the front and the rear shall be avoided except where a railroad right-of-way, a major arterial or minor arterial street is located to the rear of the lot, in which case such a lot shall have a minimum depth of 125 feet. Lots abutting cul-de-sacs shall have a minimum frontage of 25 feet.

(e) Every lot shall front on a designated collector or local street, subject however, to the following exceptions:

(i) One or more private shared access drives may be used to provide access up to no more than four dwelling units each, subject to City approval, in residential zoning districts;

(ii) Private access easements may be provided, subject to City approval, in subdivisions within commercial zoning districts across parking lot areas;

(iii) In such instances, the shared access improvements shall be subject to City specifications and the restrictions set forth in Section 11-5-11 (B).

(f) No residential lot shall front on a major arterial or minor arterial street. No access shall be permitted directly from a residential lot to a major arterial or minor arterial street.

(g) The lot depth shall not be more than three times the lot width at the front building line.

(h) Access drives and intersections shall comply with City access standards and the transportation plan. In addition, accesses onto County roads shall comply with applicable County regulations.

(i) Lots shall be at least 50 feet in width at the front building line. Lots abutting cul-de-sacs shall have at least 25 feet of linear frontage to the cul-de-sac.

(j) Sight triangles shall be shown on the plat as per the engineering specifications.

(4) *Public Utilities.*

(a) All utilities shall be installed underground unless the City Engineer determines that soil or topographic conditions make that impracticable.

(b) Utilities shall be installed prior to the paving of any street under which they are to be located and the individual service lines shall be connected and stubbed out prior to paving, in order to avoid the necessity of cutting into the pavement to connect any abutting lots.

(c) Utilities will be sized and placed as necessary to facilitate connection with future subdivisions and developments. At a minimum, six-inch water main lines shall be provided in residential zoning districts, and eight-inch water main lines shall be provided in commercial and industrial zoning districts. At a minimum, eight-inch sewer main lines shall be provided in all zoning districts. Multiple buildings within a single lot shall each require a singular water and sewer lateral connection to a main line.

(d) The City may elect to require over-sizing of the extended utility and pay for the cost of such materials accordingly.

(e) City water and sewer systems shall be provided except where the City has required an alternative supplier by service area agreement with such alternative provider. In cases where alternative utilities are provided on a temporary basis, connection to City services shall be required at such time they are made available to the subject property.

(f) In the event that City sewer service will not be available within a reasonable time period following final plat approval, engineered individual sewage disposal systems may be authorized by the City for those subdivisions occurring within the residential rural living zoning districts with lot sizes of five acres or greater. Advance City approval shall be required in each case.

(g) All extension of City utilities shall require City approval and proper execution of City utility extension agreements. The extension of utilities shall be at the sole expense of the subdivider.

(h) Prior to any installation or construction of utility extensions, the subdivider shall first submit proposed alignment location maps and engineered drawings for City approval. The subdivider shall acquire all necessary easements for the proposed utility location from all affected properties. The easements shall be conveyed to the City and executed on applicable City forms.

(i) All utility extensions shall be subject to City inspection and approval. The City may elect to contract inspection services at the subdivider's expense.

(j) All utility main line extensions, once approved by the City, shall be dedicated to the City with applicable utility easements. As-built plans and data shall be provided on hard copy in accordance with these provisions and on diskette in a digital format compatible with City computer systems.

(k) Following the completion of any utility extension and submission of the as-built plans, the City Engineer shall conduct an inspection, and if the improvements are in accordance with the requirements of these and other applicable regulations and good engineering and construction standards, shall issue a Preliminary Letter of Infrastructure Completion.

(i) For a period of two calendar years thereafter, the subdivider shall be responsible for correcting all defects or failures that appear in such improvements.

(ii) At the completion of this two calendar year construction warranty period, upon written request from the subdivider, all public and necessary on- and off-site improvements shall again be inspected by the City Engineer, and upon final approval, may be accepted by the City, as evidenced by issuance of a Letter of Infrastructure Completion and Acceptance. The provisions set forth in Section 11-5-12(D) shall apply to improvements and construction covered by this Section.

(5) *Piped Drainage Facilities and Waterways.*

(a) Stormwater discharge improvements shall be engineered and approved in accordance with City specifications. stormwater retention on site shall be discouraged. When feasible to do so and when requested by the City Engineer, all ditches shall be piped and subject to platted easements to be dedicated either to the City or to the applicable owner of the ditch facilities. The City may elect to allow the location of piped ditch facilities within its rights-of-way at its discretion. Perpetual maintenance shall be provided pursuant to plat notes and/or City-approved covenants.

(b) Permission shall be acquired, in writing, from all applicable owners of ditch facilities prior to improvements thereto.

(c) No discharges of urban stormwater into any irrigation ditch facilities shall be allowed. No discharges of urban stormwater into agricultural drainage ditch facilities shall be allowed, unless otherwise approved by the owning interest in said drainage facilities.

(6) *Monuments.* Monuments shall be set in concrete and placed at all corners of all street intersections, at the intersections of the boundary of the subdivision with street right-of-way lines, at angle points and points of curve in each street and at points of change in direction of the exterior boundaries of the subdivision. The top of the monument shall have a metal cap set flush to identify the location. All lot corners shall be monumented with a minimum of a #5 rebar 18 inches in length and metal cap.

(7) *Berms, Screening and Buffers.* Buffers and/or screening shall be provided between incompatible uses both within the subdivision and adjoining the subdivision in accordance with City design standards and specifications.

(8) *Street Lights.*

(a) In all subdivisions, except for residential zoned rural living and estate subdivisions, streetlights shall be provided at all intersections and at intervals between intersections in accordance with City specifications.

(b) In residential rural living zoning districts and estate subdivisions, street lights shall only be required at street intersections, with no interval requirements.

(c) All streetlights shall conform to City standards and specifications, and with Chapter 11-9 of this Title.

(9) *Outdoor Lighting.* All outdoor and exterior lighting shall conform with Chapter 11-9 of this Title.

(10) *Flood Hazard Prevention*. All subdivision proposals shall conform to the flood hazard reduction standards in Section 11-6-5 (G) of this Title.

Sec. 11-5-14. Deviations from standards.

The Planning Commission may recommend to the City Council a deviation from the standards of Section 11-5-13 during preliminary or final plat review, if and only if all of the below criteria are met. The Council may accept or deny the recommendation accordingly.

(1) Unusual topography or a hardship exists;

(2) Alternative standards will more effectively protect the quality of the subdivision and the public welfare and more effectively achieve the purposes of these regulations;

(3) Alternative standards will more effectively implement provisions of the City's Comprehensive Plan;

(4) Alternative standards will more effectively conform to existing improvements within the subdivision, which existing improvements have been previously approved by either the City or the County of Montrose in accordance with applicable laws and regulations.

CHAPTER 11-6. FLOODPLAIN MANAGEMENT

Sec. 11-6-1. General provisions.

(A) *Lands To Which This Chapter Applies.* This Chapter shall apply to all special flood hazard areas, and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City of Montrose, Colorado.

(B) *Basis for Establishing the Special Flood Hazard Area.* The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Montrose County and Incorporated Areas," effective January 6, 2012, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated and approved by the City Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(C) *Establishment of Floodplain Development Permit.* A floodplain development permit shall be required to ensure conformance with the provisions of this Chapter.

(D) *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this Chapter and other applicable regulations. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation. This Chapter meets the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program, and was imposed upon the City by those agencies.

(E) This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) In the interpretation and application of this Chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed to neither limit nor repeal any other powers granted under the State Constitution, State Statutes, the City Charter, nor local ordinances and regulations.

(G) The degrees of flood protection required by this Chapter is considered reasonable for regulatory purposes, and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damage. This Chapter shall not create liability on the part of the City or any official or employee

thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

(H) This Chapter and the various parts thereof are hereby declared to be severable. Should any Section of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Chapter as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

Sec. 11-6-2. Administration.

(A) The City Manager is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Chapter and other appropriate Sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(B) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 11-6-3, in accordance with the City's Records Retention Schedule, as amended.

(2) Review, approve, or deny all applications for floodplain development permits required by this Chapter.

(3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act, as amended, 33 USC 1334) from which prior approval is required.

(5) Require as-built plans sealed by a registered Colorado professional engineer, showing compliance with all provisions of this Chapter, including proper elevation of the structure.

(6) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(7) When Base Flood Elevation Data has not been provided in accordance with Section 11-6-1(B), the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation Data and Floodway data available from a federal, state, or other source, in order to administer the provisions of Section 11-6-5.

(8) For waterways with Base Flood Elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM,

unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the City.

(9) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the City may approve certain development in Zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the City first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 of the National Flood Insurance Program regulations and receives FEMA approval.

(10) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

(11) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

Sec. 11-6-3. Permit procedures.

(A) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by the City of Montrose, and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to a special flood hazard area. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 11-6-5(B)(2); and

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(B) The Floodplain Administrator shall maintain a record of all such information in accordance with the City's record retention schedule.

(C) Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(10) The relationship of the proposed use to the City Comprehensive Plan for that area.

Sec. 11-6-4. Variance procedures.

(A) The Planning Commission shall hear and render judgment on requests for variances from the requirements of this Chapter. A de novo hearing may be requested from a decision of the Planning Commission in accordance with the provisions of Section 11-4-2 of this Title; said de novo hearing shall be held in accordance with the provisions of Section 11-4-2 of this Title.

(B) The Planning Commission shall hear and render judgment on a variance only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

(C) The Floodplain Administrator shall maintain a record of all actions involving a variance, and shall report variances to the Federal Emergency Management Agency upon request.

(D) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this Chapter.

(E) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(F) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 11-6-3 have been fully considered. as the lot size increases beyond the one-half acre, the technical justification required for issuing the variance shall increase.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Upon consideration of the factors noted above and the intent of this Chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Chapter.

(I) *Prerequisites For Granting Variances.*

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) Showing a good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(J) Variances may be issued by the Planning Commission for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use, provided that:

(1) The criteria outlined in Section 11-6-4(A) – (G) are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 11-6-5. Provisions for flood hazard reduction.

(A) *General Standards.* In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state requirements, as well as those set forth in the International Building Code currently adopted by the City of Montrose, as amended;

(6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(B) *Specific Standards.* In all special flood hazard areas where base flood elevation data has been provided as set forth in Section 11-6-1(B), 11-6-2 B (7), or 11-6-5(F), the following provisions are required:

(1) *Residential Construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(2) *Nonresidential Construction.*

(a) With the exception of critical facilities, outlined in Section 11-6-5(H), new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(b) A registered Colorado professional engineer or architect shall develop and review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator, in accordance with the City's Records Retention Schedule.

(3) *Enclosures.*

(a) New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(b) Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect, or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured Homes.*

(a) All manufactured homes that are placed or Substantially Improved within Zones A1-30, AH, and AE on the City's FIRM on sites:

(i) Outside of a manufactured home park or subdivision;

(ii) In a new manufactured home park or subdivision;

(iii) In an expansion to an existing manufactured home park or subdivision; or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes that are to be placed or substantially improved on sites in an existing mobile home park or subdivision with Zones A1-30, AH and AE on the City's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

(i) The lowest floor of the manufactured home is one foot above the base flood elevation; or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and that are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational Vehicles.*

(a) All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the City's FIRM shall either:

(i) Be on the site for fewer than 180 consecutive days; or

(ii) Be fully licensed and ready for highway use; or

(iii) Meet the permit requirements of Section 11-6-3, and the elevation and anchoring requirements for manufactured homes in Subsection 11-6-5(B)(4).

(b) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(6) *Prior Approved Activities.* Any activity for which a floodplain development permit was issued by the City of Montrose, or a CLOMR was issued by FEMA prior to the effective date of Ordinance No. 2290 of the City of Montrose, may be completed according to the standards in place at the time of the permit or CLOMR issuance, and will not be considered in violation of this Chapter if it meets such standards.

(C) *Standards for Areas of Shallow Flooding (AO/AH Zones).*

(1) Located within the special flood hazard area established in Section 11-6-1(B) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity of flow may be evident. Such flooding is characterized by ponding or sheet flow. The following provisions apply in these areas:

(a) *Residential Construction.* All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(b) *Nonresidential Construction.*

(i) With the exception of critical facilities, outlined in Subsection (H), all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with wall substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads, and the effects of buoyancy. A registered Colorado professional

engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 11-6-3, are satisfied.

(ii) Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

(D) *Floodways.*

(1) Floodways are administrative limits, and tools used to regulate existing and future floodplain development. The State of Colorado has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of the term "floodway" in Chapter 11-15-4 of this Title). Located within special flood hazard area established in Section 11-6-1(B), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the City during the occurrence of the base flood discharge.

(b) If Subsection (D)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

(c) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance regulations, the City may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the City first applies for a CLOMR and floodway revision through FEMA.

(E) *Alteration of a Watercourse.*

(1) For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

(a) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

(b) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

(c) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.

(d) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.

(e) All activities within the regulatory floodplain shall meet all applicable federal, state and City floodplain requirements and regulations.

(f) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is no rise in the proposed conditions compared to existing conditions in the floodway resulting from the project, otherwise known as a No-Rise Certification, unless the City first applies for a CLOMR and Floodway revision in accordance with Subsection (D).

(g) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(F) *Properties Removed from the Floodplain by Fill.* A floodplain development permit shall not be issued for construction of a new structure or addition to an existing structure, on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), with a lowest floor elevation placed below the Base Flood Elevation, when one foot of freeboard existed prior to the placement of fill.

(G) *Standards for Subdivision Proposals.*

(1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a floodprone area, the proposal shall minimize flood damage.

(2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of Sections 11-6-1(C), 11-6-3, and the provisions of this Section 11-6-5.

(3) Base Flood Elevation Data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to Section 11-6-1(B) or 11-6-2(B).

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(H) *Standards for Critical Facilities.* A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the rules and regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during, or after a flood.

(1) *Classification of Critical Facilities.*

(a) It is the responsibility of the Floodplain Administrator to identify and confirm that specific structures in the City meet the following criteria:

(i) Critical Facilities are classified under the following categories:

(a) Essential Services;

(b) Hazardous Materials;

(c) At-risk Populations; and

(d) Vital to Restoring Normal Services.

(ii) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

(iii) These facilities consist of: Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers); emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures, but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions); designated emergency shelters; communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits); public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and air transportation lifelines (airports, municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

(iv) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

(b) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or

other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.

(c) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic or water-reactive materials. These facilities may include: chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing); laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials; refineries; hazardous waste storage and disposal sites; and above ground gasoline or propane storage or sales centers.

(2) Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility.

(a) The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the chemicals listed under 40 CFR 302, as amended, also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the State Department of Health and Environment. OSHA requirements for MSDS can be found in 29 CFR 1910, as amended. The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR 302, as amended, and OSHA regulation "Occupational Safety and Health Standards," 29 CFR 1910, as amended, are incorporated herein by reference.

(b) Specific exemptions to this category include:

(i) Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.

(ii) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the City by hazard assessment and certification by a qualified professional (as determined by the City) that a release of the subject hazardous material does not pose a major threat to the public.

(iii) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

(iv) These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Section.

(3) At-risk population facilities include medical care, congregate care, and schools.

(a) These facilities consist of: elder care (nursing homes); congregate care serving 12 or more individuals (day care and assisted living); public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children; and facilities vital to restoring normal services including government operations.

(b) These facilities consist of: essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); essential structures for public colleges and universities (dormitories, offices, and classrooms only).

(c) These facilities may be exempted if it is demonstrated to the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.

(4) *Protection for Critical Facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this Chapter, protection shall include one of the following:

(a) Location outside the special flood hazard area; or

(b) Elevation or floodproofing of the structure to at least two feet above the Base Flood Elevation.

(5) *Ingress and Egress for New Critical Facilities.* New critical facilities shall, when practicable as determined by the Floodplain Administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Sec. 11-6-6. Adoption of maps.

(A) The "The Flood Insurance Study for Montrose County and Incorporated Areas," effective January 6, 2012, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter.

(B) For reference, a copy of the FEMA Flood Insurance Rate Map for the City shall be available to the public through the Internet, or through the City Clerk's Office upon request.

CHAPTER 11-7. ZONING REGULATIONS

Sec. 11-7-1. General provisions.

(A) This Chapter, as amended from time to time, and the March 2016 Revised Zoning Map of the City, as amended from time to time, may be cited as the City's Zoning Regulations or Zoning Ordinance.

(B) The purpose of these Zoning Regulations is to promote the public health, safety and welfare of the present and future inhabitants of Montrose, as described at Section 11-1-4 of this Title.

(C) The City hereby declares that the regulation and development of land, including regulation by these Zoning Regulations, is exclusively a matter of local and municipal concern, and any provisions of any Statute or regulation of the state in conflict with the provisions of these Zoning Regulations, or any limitation imposed by any Statute or regulation of the state otherwise applicable are hereby superseded; provided, however, the City shall retain all powers authorized by state law with respect to land development regulations and zoning even though not specified within this Chapter, and such powers may be exercised in any lawful manner free from any limitations imposed by State Statute or regulation.

(D) No business or use involving the sale or distribution of products or services, or the pursuit of activities, whether for profit or not for profit, which is in contravention of any federal, state or local law or regulation, shall be considered a use by right, a conditional use, or a lawful nonconforming use under this Chapter, in any zoning district within the City limits.

Sec. 11-7-2. Official Zoning Map.

(A) The March, 2016 Revised Zoning Map of the City, as such may be amended from time to time, may be known or cited as the Official Zoning Map of the City.

(B) Amendments to the Official Zoning Map may be made by an ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map by specifying the legal description of the property to be rezoned. A copy of the Official Zoning Map, as amended from time to time, shall be maintained in the City Clerk's office available for public inspection. The City Manager may cause technical corrections to the Official Zoning Map to be made without any requirement that they first be approved by ordinance, provided such corrections simply implement the terms of previously-approved rezoning ordinances and are consistent with the zone district boundary rules of interpretation in Section 11-7-3.

Sec. 11-7-3. Zone district boundaries.

The regulations for the various residential, mixed use, commercial and industrial districts provided for in this Chapter shall apply within the boundaries of each such district as indicated on the Official Zoning Map. In establishing the boundaries of the zoning districts shown on the Official Zoning Map, the following rules shall apply:

(1) General rules of interpretation. For unsubdivided property or where a zoning boundary divides a property, or if the zoning boundaries cannot otherwise be determined, the boundaries on the Official Zoning Map shall be based upon the individual zoning or rezoning map approved for the property.

(2) Lot or block lines. Where no rights-of-way exist and the zoning boundaries are indicated as approximately following lot, tract, block or subdivision boundary lines, such limits shall be considered as the zoning district boundaries.

(3) Rights-of-way. Unless otherwise indicated, the zoning district boundaries are the centerlines of streets, alleys, waterways, and railroad rights-of-way. The area within any of the rights-of-way is not granted any of the use rights associated with the overlying or adjacent zoning district(s).

(4) Vacated rights-of-way. Whenever a public street, alley or other right-of-way has been vacated, the zoning district adjoining each side of the right-of-way shall be extended to include the portion of the vacated street, alley, or other right-of-way adjacent to such adjoining property.

(5) City boundaries. Boundaries indicated as approximately following the City limits shall be considered as following the City limits.

(6) Other boundaries. Boundaries indicated as approximately parallel to or extensions of centerlines, lot, or tract lines, City limits, or similar geographic lines shall be considered as the boundaries when no or other reliable documentation is available.

(7) Map discrepancies. Should an actual street layout or stream course vary from that shown on the map or any other uncertainty remain as to the location of a zoning district boundary, the City Manager shall interpret the map based on the best information available and according to the intent of this title and any other applicable provisions of the Municipal Code.

(8) Boundary disputes. Disputes concerning the exact location of any zoning district boundary line shall be decided by the Planning Commission.

Sec. 11-7-4. Zoning annexed land.

All annexed land shall be zoned within 90 days of annexation following the procedure for rezoning at Section 11-7-12. Zoning of property proposed for annexation may be processed simultaneously with the petition for annexation, provided no ordinance zoning such property may be finally adopted prior to final adoption of an ordinance or ordinances annexing such property.

Sec. 11-7-5. Districts established.

(A) The residential districts described below are established to promote stability in residential neighborhoods; to protect such property from incompatible land uses; to protect property values; and to encourage the appropriate use of such land. Certain other uses are permitted which are compatible with residences.

(1) The "RL" Rural Living District is intended to provide for farms, ranches, and clustered development with open space, and is designed to dovetail with allowed County residential densities.

(2) The "R-1" Very Low Density District is intended to provide for large lot rural residential development with a maximum density of one dwelling unit per acre.

(3) The "R-1A" Large Estate District and "R-1B" Small Estate District are intended to provide for large single-family residential lots within a semi-rural environment.

(4) The "R-2" Low Density District is intended to provide for development of single-family residences, along with certain other compatible land uses.

(5) The "R-3" Medium Density District is intended to provide for an area which is suitable for both single-family homes and duplexes, along with certain other compatible land uses.

(6) The "R-3A" Medium High Density District is intended to provide for an area which is suitable for single-family homes, duplexes and multifamily residences, along with certain other compatible land uses.

(7) The "R-4" High Density District is intended to provide for high density multiple-family residences and to allow variety in housing types.

(8) The "R-5" Low Density/Manufactured Housing District is intended to provide for low density development of single-family manufactured homes, along with certain other compatible land uses.

(9) The "R-6" Medium Density/Manufactured Housing District is intended to provide for medium-density development for single-family and duplex manufactured homes, along with certain other compatible land uses.

(10) The "MHR" Manufactured Housing Residential District is intended to provide a suitable environment for mobile homes, along with certain other compatible land uses.

(B) The mixed-use district described below is established to promote stability in areas in transition; to protect such property from incompatible land uses; to protect property values; and to encourage the appropriate use of such land.

(1) The "OR" Office-Residential District is intended to provide for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.

(C) The commercial districts described below are established to provide a location for convenient exchange of goods and services in a reasonable and orderly manner.

(1) The “P” Public District is intended to provide for uses and services of a public, nonprofit, or charitable nature.

(2) The "B-1" Central Business District is intended to reflect the character of the original Downtown while allowing additional uses that will strengthen and expand the core of the City.

(3) The "B-2" Highway Commercial District is intended to provide for businesses oriented toward serving the motoring public, encouraging the convenient exchange of goods and services along the major thoroughfares of the City.

(4) "B-2A" Regional Commercial District is intended to provide for a full spectrum of goods and service uses along the major thoroughfares of the City.

(5) The "B-3" General Commercial District is intended to provide for a large variety of goods and services including outdoor storage areas and a limited group of commercial/industrial uses.

(6) The "B-4" Neighborhood Shopping District is intended to provide for small scale retail shopping and services convenient to residential neighborhoods.

(D) The industrial districts described below are established to provide for normal manufacturing activities and related uses.

(1) The "I-1" Light Industrial District is intended to provide for a limited group of research and manufacturing uses promoting the creation and maintenance of an employment center which will serve the mutual interests of the community as a whole.

(2) The "I-2" General Industrial District is intended to provide for most industrial and manufacturing uses, subject to performance standards.

(E) Dimensional requirements are set out in Section 11-7-7.

Sec. 11-7-6. District uses.

(A) *Permitted uses*. Those uses designated as permitted uses on the schedule of uses in Subsections 11-7-6 (G) and 11-7-6 (H) are allowed as a matter of right subject to approval of a site development plan per Section 11-8-1 of this Title.

(B) *Conditional uses*. Uses listed as conditional uses on the schedule of uses in Subsections 11-7-6 (G) and 11-7-6 (H) shall be allowed only if the Planning Commission determines, following review pursuant to Chapter 11-4 of this Title, that the following criteria are substantially met with respect to the type of use and its dimensions:

(1) The use will not be contrary to the public health, safety, or welfare.

(2) The use is not materially adverse to the City's Comprehensive Plan.

(3) Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience.

(4) The use is compatible with existing uses in the area and other allowed uses in the district.

(5) The use will not have an adverse effect upon other property values.

(6) Adequate off-street parking will be provided for the use.

(7) The location of curb cuts and access to the premises will not create traffic hazards.

(8) The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of adjacent property.

(9) Landscaping of the grounds and the architecture of any buildings will be reasonably compatible with that existing in the neighborhood.

(C) *Principal uses*. The primary use of a lot is referred to as a principal use which may be a land use or a structure. Only one (1) principal use per lot is allowed except where a mix of residential and nonresidential uses may be permitted in a specified zone district.

(D) *Accessory uses*. Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this Chapter, and shall also comply with the following limitations:

(1) An accessory use shall be clearly incidental, customary to and commonly associated with the operation of the permitted use.

(2) An accessory use shall be operated and maintained under the same ownership as the permitted use.

(3) An accessory use shall be located on the same lot as a principal use.

(E) *Temporary Use Permits.*

(1) The City Manager or his designee may issue a permit authorizing a temporary use of premises in a district for a use which is otherwise not allowed in such a district for a period of up to one year in accordance with this Subsection.

(2) The temporary use permit may be issued by the City Manager only after it determines that unusual circumstances exist, not created by the applicant, such as damage, destruction or delay in construction of applicant's permanent premises, which results in significant hardship, and that the temporary use will not unreasonably interfere with the use of other property, or result in any permanent adverse effects to other property, or create a safety or health hazard.

(3) The City Manager or his designee shall hold such hearings concerning the application and provide such notice thereof as the circumstances merit in his opinion. The permit may be granted subject to conditions appropriate to ensure compliance with this Subsection.

(4) *Temporary Construction or Sales Office.* A building within a subdivision may be utilized as a temporary construction or sales office for a period up to one year by the developer of that subdivision during the period of the construction and initial sales respectively of the building and improvements within the area encompassed by the preliminary plat for each subdivision. The City Manager may authorize additional one-year periods for use as a construction office if construction is continuing in the area after the preceding year, or as a sales office if not all of the houses in the area have been sold during the year preceding.

(F) *Uses Not Listed*.

(1) Uses not listed in a zone district are prohibited except that such uses may be approved by the City Manager provided such uses are found to be similar to a permitted use.

(2) Any person aggrieved by a decision of the City Manager pursuant to this Subsection may appeal that decision to the City Council under the following procedure:

(a) The appeal must be made in writing and filed within thirty (30) days of the decision being appealed.

(b) The City Council shall consider he appeal at a public hearing held within thirty (30) days of receipt of the written appeal, notice of which shall be given to the appellant by US mail at least fifteen (15) days prior to the hearing.

(c) The City Council shall approve or deny the appeal.

(d) The decision of the City Council shall be the final decision of the City on the matter, appealable only to the district court.

(G) Schedule of Residential Zone District Uses.

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
COMMERCIAL USES										
Bed and breakfast (See Sec. 11-11-1)					C		C		C	
Farms and ranches, excluding commercial greenhouses, and commercial feedlots, fur farms, fish farms, poultry houses, hog farms, dairies and similar operations with a high density of animals.	P									
Rental storage units with a maximum rental unit size of 200 square feet.										C
Short-term rentals	P	P	P	P	P	P	P	P	P	P
INSTITUTIONAL USES										
Assisted living facilities					C	C	C		C	C
Childcare facilities	C	C	C	C	C	C	C	C	C	C
Family childcare home	P	P	P	P	P	P	P	P	P	P
Government buildings and facilities	P	P	P	P	P	P	P	P	P	P
Religious assembly	C	C	C	C	P	P	P	C	C	P
Schools	C	C	C	C	C	C	C	C	C	C
RECREATIONAL USES										
Golf courses	P									
Parks, open space and recreation facilities	P	P	P	P		P	P	P	P	P
RESIDENTIAL USES										
Duplex					P	P	P		P	
Group homes - handicapped/disabled 8 persons or less (see Sec. 11-11-2)	P	P	P	P	P	P	P	P	P	P
Group homes - handicapped/disabled > 9 persons (see Sec. 11-11-2)	C	C	C	C	C	C	C	C	C	C
Group homes, other (see Sec. 11-11-2)	C	C	C	C	C	C	C	C	C	C

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
Home occupation (See Sec. 11-11-3)	A	A	A	A	A	A	A	A	A	A
Manufactured housing				[1]				P	P	P
Mobile homes (See Sec. 11-13)										P
Mobile home parks (See Sec. 11-13)										P
Modular housing								P	P	P
Multi-family dwelling					C	P	P		C	
Single-family dwelling	P	P	P	P	P	P	P	P	P	P
UTILITIES AND TELECOMMUNICATION FACILITIES										
Antennas (See Sec. 11-14-6)	C	C	C	C	C	C	C	C	C	C
Public utility service facilities	P	P	P	P	P	P	P	P	P	P
Towers (See Sec. 11-14-5)	C	C	C	C	C	C	C	C	C	C
OTHER USES										
Accessory uses (See Sec. 11-7-6 (D))	A	A	A	A	A	A	A	A	A	A
Temporary use (See Sec. 11-7-6 (E) (1-3))	T	T	T	T	T	T	T	T	T	T
Temporary Construction or Sales Office (See Sec. 11-7-6 (E)(4))	T	T	T	T	T	T	T	T	T	T
Travel home (See Sec. 11-13-6 (2))		T	T	T	T	T	T	T	T	T

[1] Manufactured housing is prohibited except for the following subdivision which was under development on July 1, 1998: Rainbow Meadows Subdivision.

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
Legend: Zoning Districts RL: Rural Living R-1: Very Low Density R-1A: Large Estate R-1B: Small Estate R-2: Low Density R-3: Medium Density R-3A: Medium High Density R-4: High Density R-5: Low Density/Manufacture Housing R-6: Medium Density/Manufacture Housing MHR: Manufactured Housing Residential				**Legend: Use Type** P: Permitted Use C: Conditional Use A: Accessory Use T: Temporary Use Note: Any uses not listed in a zone district are prohibited – see Sec. 11-7-6 (F)(1).						

(H) Schedule of Mixed Use, Commercial and Industrial Zone District Uses.

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
COMMERCIAL USES									
Automobile and vehicle sales, repair or service establishments			C	C	P	P			
Automobile body shops			C	C	P	P			
Bed and breakfast (See Sec. 11-11-1)	P								
Building materials businesses			C	P	P	P			
Car washes				P	P	P	C		
Commercial businesses		C							
Commercial uses other than the uses by right in this zone district which comply with the performance standards of Chapter 11-11-4 and are consistent with Sec. 11-7-5 (D) (1).								C	
Farm implement sales or service establishments					P	P			
Fueling stations or other retail uses having fuel pumps which comply with the following criteria: (a)All fuel storage, except propane, shall be located underground. (b)All fuel pumps, lubrication and service facilities shall be located at least 20 feet from any street right-of-way line.			P	P	P	P	C		
Funeral homes			C	C	C	C			
Hotels and motels			P	P	P	P			
Laundry facilities, self-service				P	P	P	P		
Mobile and travel home sales or service establishments					P	P			
Offices for medically related and professional service providers including doctors, dentists, chiropractors, lawyers, engineers, surveyors, accountants, bookkeepers, secretarial services, title companies, social service providers and other similar professional service providers.	P								

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Offices not allowed as a use by right.	C								
Travel home parks and campgrounds (See Sec. 11-13)				C	C	C			
Rental businesses					P	P			
Restaurants			P	P	P	P	P		P
Restaurants, drive-in or drive-through			C	C	C	C	C		
Retail sales and services establishments which cater to the general shopping public	C								
Retail stores, business and professional offices, and service establishments which cater to the general shopping public.			P	P	P	P	P		P
Retail stores, business and service establishments serving the general public but which also involve limited manufacturing of the products supplied				C	C	C			
Sexually oriented business (See Sec. 11-12-1)									P
Short-term rentals	P		P	P	P	P	P	P	P
Taverns			P	P	P	P	C		
Theaters			P	P	P	P			
Veterinary clinics or hospitals for small animals				P	P	P			
Veterinary clinics or hospitals for large animals					P	P			
INDUSTRIAL USES									
Above ground storage facilities for hazardous fuels						P			P
Aircraft support services, including, but not limited to, aircraft maintenance and passenger and crew services.								P	P
Construction and contractor's office and equipment storage facilities						P			P
Feed storage and sales establishments						P			P

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Manufacturing and non-manufacturing uses including: food processing; metal finishing and fabrication; paper, plastic and wood manufacturing (excluding processing of any raw materials), fabric manufacturing and similar activities. (See Sec. 11-11-4)					C	C		P	P
Other industrial uses									P
Storage facilities, indoor			C	P	P	P	C		P
Storage facilities, outdoor					C	P		P	P
Warehouse and wholesale distribution operations			C	C	C	C		P	P
INSTITUTIONAL USES									
Airport								P	P
Assisted living facilities	C			P	P	P			
Childcare facilities	P	C	P	P	P	P	P	P	P
College or other place of adult education			P	P	P	P			
Daytime social service activities by a social service provider, to include food storage; food distribution without monetary remuneration as a food pantry and/or food service without monetary remuneration as a soup kitchen; laundry facilities not for profit; showers; and counseling to include alcohol and/or substance abuse counseling. This use by right expressly excludes the overnight sheltering of people. For the purposes of this use by right authorization, "daytime" shall mean from 6:00 a.m. to 6:00 p.m. Mountain Standard Time. "Night" shall mean from 6:00 p.m. to 6:00 a.m. Mountain Standard Time.			P	P	P	P			
Family child care home	P	C	P	P	P	P	P	P	P
Government buildings and facilities	P	P	P	P	P	P	P	P	P
Hospitals	P								
Libraries		P	P	P	P	P			

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Museums and visitor centers		P	P	P	P	P			
Parking facilities	P	P	P	P	P	P			
Private and fraternal clubs			P	P	P	P	C		
Public transportation facilities			P	P	P	P			
Religious assembly	P	P	P	P	P	P	P		
Schools	C	P	C	C	C	C	C		
RECREATIONAL USES									
Golf courses		C							
Parks, open space and recreation facilities	P	P	P	P	P	P	P	P	P
Private recreation facilities		P							
RESIDENTIAL USES									
Duplex	P		P	P	P	P	P	P	P
Group homes - handicapped/disabled 8 persons or less (see Sec. 11-11-2)	P		P	P	P	P	P	P	P
Group homes - handicapped/disabled > 8 persons (see Sec. 11-11-2)	C		C	C	C	C	C	C	C
Group homes, other (See Sec. 11-11-2)	C		C	C	C	C	C	C	C
Home occupation (See Sec. 11-11-3)	A		A	A	A	A	A	A	A
Multifamily dwelling	C	C	P	P	P	P	P	P	P
Single-family dwelling	P	C	P	P	P	P	P	P	P
Supportive housing	C					C		C	
UTILITIES AND TELECOMMUNICATION FACILITIES									
Antennas (See Sec. 11-14-6)	C	C	C	C	C	C	C	C	C
Public utility service facilities	P	P	P	P	P	P	P	P	P
Towers (See Sec. 11-14-5)	C	C	C	C	C	C	C	C	C
OTHER USES									
Accessory uses (See Sec. 11-7-6 (D))	A	A	A	A	A	A	A	A	A
Temporary use (See Sec. 11-7-6 (E) (1-3))	T	T	T	T	T	T	T	T	T
Temporary Construction or Sales Office (See Sec. 11-7-6 (E)(4))	T	T	T	T	T	T	T	T	T
Travel home (See Sec. 11-13-6 (2)	T		T	T	T	T	T	T	T

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Legend: Zoning District OR: Office-Residential P: Public 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			**Legend: Use Type** P: Permitted Use C: Conditional Use A: Accessory Use T: Temporary Use Note: Any uses not listed in a zone district are prohibited – see Sec. 11-7-6 (F)(1).						

Sec. 11-7-7. District standards.

(A) Tabulated requirements for uses by right are as follows (all dimensions in feet or square feet unless otherwise noted):

		Minimum Lot			Minimum Setbacks				
District	**Use**	**Width at Building Line**	**Depth**	**Size**	**Front**	**Rear**	**Side**	**Corner Lot**	**Maximum Building Height**
RL	All	100	150	[2]	25	20	10	20	35
R-1	All	100	150	1 acre	25	20	10	20	35
R-1A	All	100	150	½ acre	25	20	10	20	35
R-1B	All	100	150	⅓ acre	25	20	10	20	35
R-2	All	N/A	N/A	7,500	25	20	6	20	35
R-3	Single-family	N/A	N/A	6,250	15	25	5	15	35
	All others	N/A	N/A	9,375	15	25	5	15	35
R-3A	Single-family	N/A	N/A	6,250	15	25	5	15	35
	Duplex	N/A	N/A	9375	15	25	5	15	35
	All others	N/A	N/A	Larger of 9,375 or 2,900/unit	15	20	10	15	35
R-4	Single-family	N/A	N/A	6,250	15	25	5	15	35
	Duplex	N/A	N/A	9,375	15	25	5	15	35
	All others	N/A	N/A	Larger of 9,375 or 2,300/unit	15	20	10	15	35
R-5	All	100	120	12,000	25	20	10	20	35
R-6	Single-family	N/A	N/A	7,500	25	20	6	20	35
	All others	N/A	N/A	9,375	25	20	6	20	35
MHR	All except MH Parks[3]	N/A	N/A	3,125	5	10	10	10	35
OR	Single-family	50	100	6,250	15	15	5	15	35
	Duplexes	50	100	6,250	15	15	5	15	35
	All Others	50	100	6,250	15	15	5	15	35
B-1	No Req	No Req.	No Req.	No Req., except for fueling stations	No Req.	No Req.	No Req.	No Req.	No Req.

[2] A minimum lot size shall be determined as a condition of initial zoning of property as "RL." Such lot size shall be designed to limit overall residential units per acre to no more than allowed by Montrose County in comparable areas in the County where sewer is available, and to implement the City Comprehensive Plan as feasible while remaining economically competitive with allowed County densities.

[3] Dimensional requirements for mobile home parks are controlled by Chapter 11-13-5 of this Title.

B-2	All [4]	50	100	N/A	15	N/A	N/A	15	N/A
B-2A	All	50	100	N/A	25	N/A	N/A	25	35
B-3	All	50	100	N/A	25	N/A	N/A	25	35
B-4	All	N/A	N/A	N/A	25	N/A	N/A	25	35
I-1	All	N/A	N/A	½ acre	25	N/A	N/A	25	N/A
I-2	All	N/A	N/A	½ acre	25	N/A	N/A	25	N/A
All Zones Except I-1, I-2	Renewable Energy Facilities	N/A	N/A	N/A	25	25	10	25	35
I-1, I-2	Renewable Energy Facilities	N/A	N/A	N/A	25	25	10	25	N/A

(B) Proper dimensional requirements for conditional uses shall be determined in accordance with this Section and Section 11-7-6 (B), provided that as a general rule, they shall be no less strict than the dimensional requirements specified for permitted uses in the district concerned or as specified for the use concerned in a zone in which it is a permitted use. Provided, further, that the following minimum lot sizes shall apply to duplexes and multifamily residences when allowed as a conditional use:

District	**Use**	**Minimum Lot Size**
R-3 and R-6	Multifamily Residence	The larger of 9,375 or 2,900 per dwelling unit
OR	Multifamily Residence	The larger of 9,375 or 2,900 per dwelling unit

(C) Additional Dimensional Requirements.

(1) Accessory use structures or buildings in residential districts may be located on those rear and side property lines which do not abut a street, if the structure is at least ten feet to the rear of the building line of the principal structure and does not occupy more than 30 percent of the rear yard area.

(2) In a block where a setback line has been established by existing structures 50 percent or more of the block, the average setback of the existing buildings may be used as the minimum setback.

(3) Garage doors which face an alley require a five-foot minimum setback.

(D) Additional District Standards.

(1) All single-family dwellings in the R-5 and R-6 zone districts must have a minimum roof pitch of 3:12, a minimum roof overhang of eight inches, a minimum length and width of 20 feet, wood, brick, masonry, stucco or cosmetically equivalent exterior siding, and shall be mounted on a permanent foundation.

(2) All duplex dwellings in the R-5 and R-6 zone districts must have a minimum roof pitch of 3:12, a minimum roof overhang of eight inches, a minimum length and width of 20

[4] Residential uses in the B-2, B-2A, B-3, B-4, I-1 and I-2 zone districts shall comply with the applicable dimensional requirements as set out for the "R-3A" zone.

feet per dwelling unit, wood, brick, masonry, stucco or cosmetically equivalent exterior siding, and shall be mounted on a permanent foundation.

Sec. 11-7-8. Planned Development (PD).

(A) *Intent.* The intent of this Section is to encourage the development of tracts of land in accordance with an overall development plan by providing flexibility with respect to dimensional requirements of residential units and to provide for procedures and requirements for multi-building residential development.

(B) *General Provisions.*

(1) A planned development must be in substantial conformity with the City's Comprehensive Plan. No development with more than one building, with one or more dwelling units therein, may be erected on a single lot, tract, parcel or site unless a PD Plan, providing therefore, is approved pursuant to this Section.

(2) A minimum of 20 percent of the gross area of the planned development must be preserved as parks or open space, provided, however, this requirement shall not apply to a proposed PD containing six or fewer units and processed under Subsection C(5).

(3) Planned developments in the "RL" zoning district must consider and reasonably minimize adverse impacts on existing agricultural uses or other property in the area.

(4) Residences may be clustered, including the use of duplexes and multifamily residences.

(5) Approval of a planned development by the City is purely discretionary. If the City and the applicant do not agree on all required conditions and the plan, the City may deny approval, or the City may unilaterally impose conditions. If the developer does not accept all conditions, that development must adhere to standard subdivision and zoning requirements.

(C) *Permitted Uses in a PD.*

(1) Any use permitted in the underlying zone district, limited as to its status as a use by right, a conditional use, or a temporary use.

(2) Modular housing used for single family homes, duplexes or multiple family residences may be allowed in any zoning district, if approved as part of the planned development.

(D) *Administrative PD Procedure.* This procedure is applicable for planned developments containing six or fewer units:

(1) All lots or tracts are adjacent to a dedicated and accepted public street;

(2) The lots are part of a subdivision or PD plat that has been previously approved and/or accepted by the City and recorded in the Montrose County Records;

(3) All improvements required by applicable City ordinances and regulations, including those related to PD Plans, are already in existence and available to serve each lot, or secured;

(4) No part of the Administrative PD has been approved as part of an Administrative PD within three years prior to the date of submission of the Administrative PD plat;

(5) No material changes to prior restrictions or easements are proposed; and

(6) Provisions of Section 11-5-3 (B) through and including (E) of this Title shall apply.

(7) Approval of an Administrative PD by the City is purely discretionary. If the City and the applicant do not agree on all required conditions and the plan, the City may deny approval, or the City may unilaterally impose conditions. If the applicant does not accept all conditions, that development must adhere to standard subdivision or PD requirements, and proceed through the applicable approval process.

(8) Prior to any review of the Administrative PD, the applicant shall provide written consent of all property owners within the proposed Administrative PD plan area. To the extent only a portion of a prior-approved Administrative PD plan area is proposed to be amended by the Administrative PD Plan application, then only the consent of the property owners within such portion shall be required.

(E) *Dimensional Requirements, Densities.*

(1) Dimensional requirements, except those relating to overall residential density, which would otherwise be required by the City Zoning Regulations, or other City regulations for the district affected, may be deviated from in accordance with the plan as approved, if the Review Board determines that such deviations will promote the public health, safety and welfare.

(2) The Review Board may impose conditions as necessary or appropriate. The total number of residential units shall not exceed the area of the site divided by the minimum lot sizes specified for the zoning districts included.

(F) *Review of Sketch, Preliminary and Final PD Plan.*

(1) The sketch plan, preliminary plan and final PD plans shall be reviewed pursuant to the procedures and requirements for subdivisions as set out in Chapter 11-5 of this Title. The Planning Commission shall take no formal action at the conclusion of its public hearing on the sketch plan; however, comments by the public and the Commission shall be reflected in the minutes of the hearing as a part of the record on the application as it moves through the entire review process. For the approval of any preliminary PD Plan or a substantial amendment to a PD plan, a hearing shall be held before City Council.

(2) Prior to any review of the Sketch, Preliminary and Final PD Plan, the applicant shall provide written consent of all property owners within the proposed PD plan area. For the purposes of this Section, "PD plan area" is the entirety of the territory proposed to be included in a PD plan; provided, however, that for applications for PD plan amendments, only the portion of the PD plan area being amended or affected shall constitute the PD plan area for such application for purposes of consent; nevertheless, all owners of property within the PD must be given notice of the public hearing at which the amendment is to be considered.

(3) Conditions may be imposed as appropriate to assure that the PD plan is consistent with the City's Comprehensive Plan and promotes the public health, safety and welfare.

(4) The plan shall show the location, size, number of dwelling units, and other uses, and shall further set out the location of all parks, open space, parking areas, streets, sidewalks, trails, bike paths and other improvements and structures. All information necessary to show compliance with the requirements of this Section shall be submitted. Where appropriate, in lieu of exact locations, numbers and sizes, parameters or limits may be set out.

(5) The PD Plan as approved shall be recorded.

(6) The final PD plan may be treated as a vested right pursuant to the procedure in 11-4-9.:

(G) *Required Improvements.*

(1) All PDs shall provide the same improvements as required for subdivisions in Chapter 11-5 of this Title, and security therefore shall be provided as set out in Section 11-5-12 of this Title.

(2) All improvements shall be constructed in accordance with standard City design and construction specifications and standards, in substantial conformity with the PD plan, and in accordance with subdivision design standards as set out in Chapter 11-5 of this Title, except as modified by the PD plan.

(3) An entity shall be established or provided for ownership and maintenance of all facilities and open spaces, which are approved for common ownership or not dedicated to the City.

(4) Flexibility in the scope and design of required improvements and design standards may be allowed to provide for innovative urban design which promotes the public health, safety and welfare. A public street shall be dedicated to the City and developed at the developer's cost to provide direct access to each building with residential units or to the parking lot serving the building.

(H) *Enforcement and Amendments.*

(1) The PD plan may be enforced in accordance with or in the same manner as the provisions of the Planned United Development Act of 1972, as amended, C.R.S. 1973, § 24-67-101 et seq., as amended or in any lawful manner. In addition, no occupancy permit shall be issued for any building unless all site improvements to serve that unit and any commonly-owned facilities have been completed and approved unless security for completion is provided substantially similar to the security required for subdivision improvements by 11-5-12 of this Title, except that cash must be placed in the escrow account prior to issuance of the occupancy permit.

(2) Amended PD plans may be submitted for review and approval in the same manner as the initial PD Plan. An applicant for an Amended PD plan shall submit written consent of the property owners of the portion of the PD plan area to which the application applies, prior to and as a condition of the initiation of review of the application. Written consent from all property owners within the prior-approved PD plan area is not required as part of the Amended PD plan application. Advance notice of any review of an Amended PD plan application by the Planning Commission shall occur pursuant to Chapter 11-5 of this Title, with the added requirement that advance written notice shall be provided to all property owners of record within the prior-approved PD plan area, in

addition to all property owners of record adjoining or within 300 feet of the proposed Amended PD plan area.

Sec. 11-7-9. "REDO" Redevelopment Overlay Zoning District.

(A) The "REDO" Overlay Zoning District is intended to encourage residential development and redevelopment of existing properties in the core downtown area, with allowances for increased densities compatible with the character of the area. This overlay district allows reduced dimensional standards and a larger variety of housing types than the underlying zoning. Any development making use of the reduced dimensional requirements must meet all applicable criteria in this Section.

(B) The "REDO" Overlay Zoning District is an optional set of provisions, which may be utilized by owners of property within the boundaries of said district. The "REDO" Overlay Zoning District's provisions shall not be applicable to any property within the boundaries of said district, unless the owner of property therein shall deliver written notice to the City, on forms acceptable to the City, of said owner's intent to utilize the "REDO" Overlay Zoning District.

(1) The provisions of the "REDO" Overlay Zoning District shall have no effect whatsoever unless selected in the manner set forth herein.

(2) When selected by a property owner in the manner set forth herein, the "REDO" Overlay Zoning District shall supersede the provisions of the underlying zone for all matters addressed by said "REDO" Overlay Zoning District's provisions; the provisions of the underlying zone shall control all matters not addressed by the "REDO" Overlay Zoning District's provisions.

(3) The boundaries of the "REDO" Overlay Zoning District shall be as set forth by ordinance of the City Council, may be shown on the City's Official Zoning Map, and shall be fixed in the manner prescribed by Section 11-7-3.

(4) The purpose of the "REDO" Overlay Zoning District is to alleviate certain hardships associated with the redevelopment of lots or parcels included within the area platted as lots and blocks on the "Map of Montrose, Colorado with Additions and subdivisions," dated April, 1911; applications to re-zone lots or parcels, other than those included on said plat, for the purpose of including them in the "REDO" Overlay Zoning District, shall be denied.

(5) Any requests for use of these "REDO" Overlay Zoning District provisions that involve private use of City property, including rights-of-way, shall be entirely subject to the City's discretion, and shall also be subject to the City's ordinances and regulations pertaining to encroachments and permits for the same.

(6) The term "accessory dwelling unit" means, for the purposes of this Section, the residential dwelling unit on a lot closest to the alley or rear of said lot; mobile homes, park models, and travel homes shall not be included within the definition of the term "accessory dwelling unit." An accessory dwelling unit shall have no setback requirement, and shall not be subject to the 30 percent rear yard area coverage maximum. However, a ten-foot separation shall be required between the building lines of the primary structure and the accessory dwelling unit.

(C) Variance applications may be considered as to any requirements set forth in Subsections (F) and (G) of this Section. Use of the "REDO" Overlay Zoning District is expressly declared to be elective on the part of the property owner, and is entirely at the property owner's discretion.

(D) Lots equal to 6,250 square feet or greater. For lots within the "REDO" Overlay Zoning District having a size equal to 6,250 square feet or greater, the following provisions shall apply:

(1) Additional Uses by Right. One accessory dwelling unit shall be allowed in addition to the primary dwelling unit. The accessory dwelling unit may be located in a detached manufactured home structure. The detached structure must meet all other applicable dimensional standards in the underlying zoning district, except as modified by this Section, as well as all building, and other codes.

(2) One off-street parking space shall be required for each dwelling unit, except for those located within an underlying "B-1" zoning district. For properties located within an underlying "B-1" zoning district, the City may require that residential parking spaces be leased to provide adequate parking, in the City's sole discretion.

(E) Lots less than 6,250 square feet, but greater than or equal to 2,075 square feet. For lots within the "REDO" Overlay Zoning District having a size of less than 6,250 square feet, but greater than or equal to 2,075 square feet, the following provisions shall apply:

(1) Uses by Right. Single-family homes and manufactured homes.

(2) Setbacks. Five-foot side setbacks.

(3) Height. The height of a building shall be as set forth in the underlying zone.

(4) One off-street parking space shall be required for each dwelling unit, except for those located within an underlying "B-1" zoning district.

(F) Design Criteria made applicable to all lots, regardless of size, within the "REDO" Overlay Zoning District.

(1) All lots within the "REDO" Overlay Zoning District shall be required to have not less than ten feet of street frontage. It is contemplated that lots having a "panhandle" shape may be allowed.

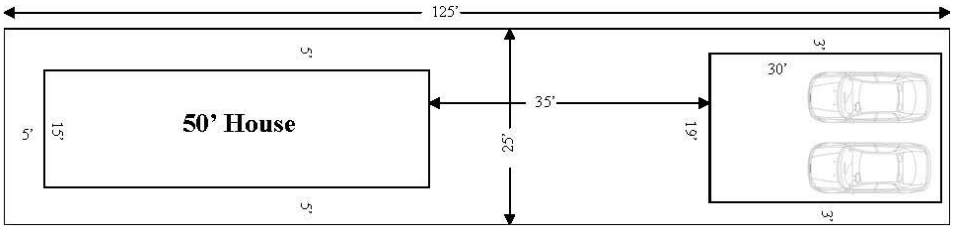
(2) If an alley is present, any garage shall be set back a minimum of five feet, when practicable, from the nearest right-of-way line of said alley.

(3) Please refer to Section 3-5-12(A)(1) of the Official Code of the City for the water Tap Fees, system investment (capacity) fees, and unit charges for accessory dwelling units in need of new water service, located on the same lot as the primary dwelling in the "REDO" Overlay Zoning District.

(4) Please refer to Section 3-5-12(G)(4) of the Official Code of the City for the sewer Tap Fees, system investment (capacity) fees, and unit charges for accessory dwelling units in need of new sewer service, located on the same lot as the primary dwelling in the "REDO" Overlay Zoning District.

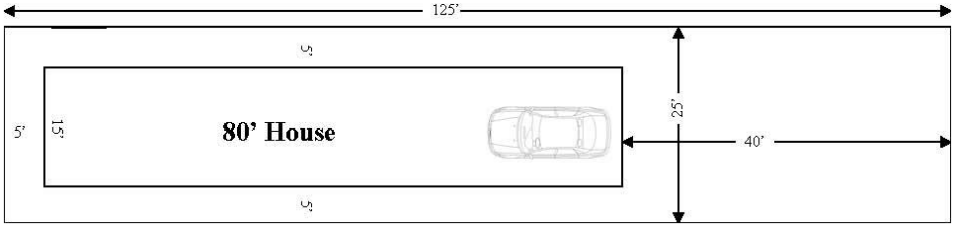
(G) The subdivision of lots in configurations substantially similar to those shown in Figure 7.3, Figure 7.4, and Figure 7.5 shall be acceptable in the "REDO" Overlay Zoning District.

Figure 7.1 Potential Layout with a Detached Two-Car Garage



- This conceptual site plan shows a possible layout with a detached two-car garage
- Actual dimensions may vary from those shown
- Note: Three-foot garage setback is not allowed on corner lots

Figure 7.2 Potential Layout with an Attached One-Car Garage



- This conceptual site plan shows a possible layout with an attached one-car garage
- Actual dimensions may vary from those shown.

Figure 7.3 Potential Subdivision on a 75' Corner Lot

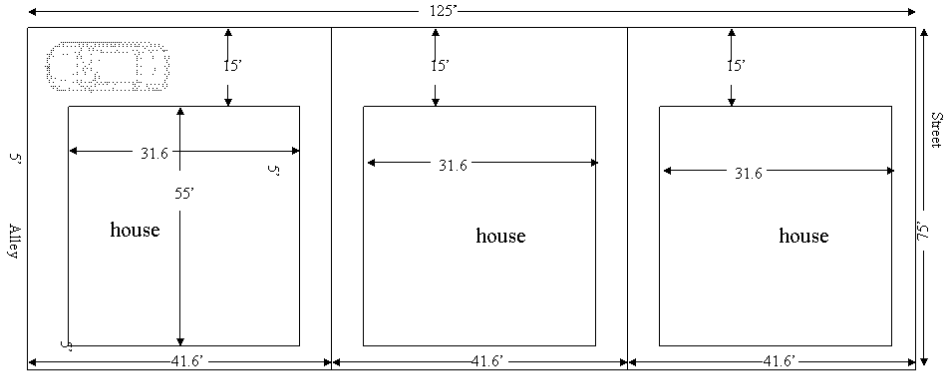


Figure 7.4 Potential Subdivision on a 50' Corner Lot

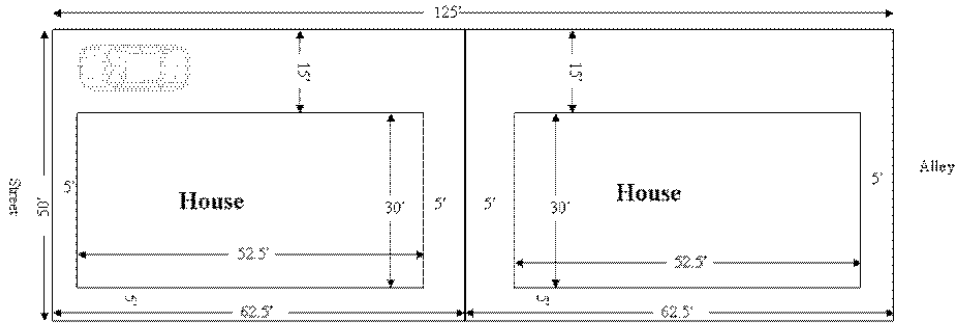
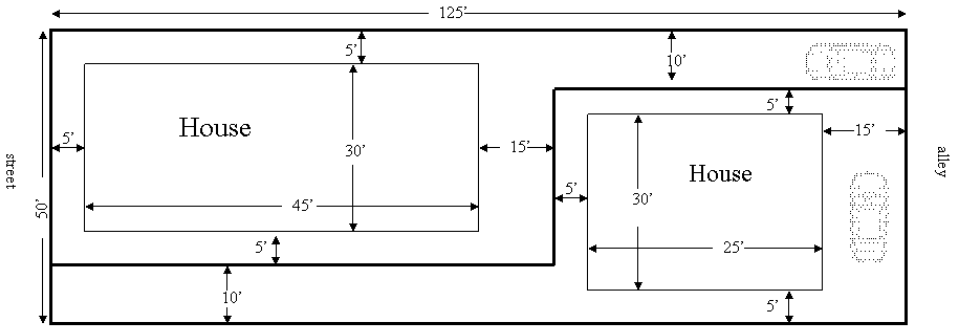


Figure 7.5 Potential Subdivision on a 50' Lot



Drawing not to scale.

Sec. 11-7-10. Uncompahgre River Buffer Overlay Zone.

The Uncompahgre River Buffer Zone (URBZ) applies to all land lying within 100 feet of the HWM of the Uncompahgre River, as defined above. The standards of the URBZ and its two sub-areas are not applicable to parcels to which stricter standards may apply via separate agreements (e.g., a pre-annexation agreement).

(1) The purpose of the URBZ is to establish minimal acceptable requirements for the design of buffers to protect the Uncompahgre River, its wetlands, and floodplains within the City limits; to protect the water quality of the Uncompahgre River within said jurisdiction; to protect riparian and aquatic ecosystems within said jurisdiction; and to provide for the environmentally sound use of land resources within said jurisdiction. Nothing in this Section shall be used as consideration in a pre-annexation agreement or in a negotiation for annexation of land into the City.

(2) Measurement of the 100 feet URBZ, the two sub-areas within it, and all other related measurements shall be taken as follows: distance is measured horizontally from the

HWM, as defined herein, to the location in question. The HWM location used for any given measurement shall be taken from the side of the river closest to the building or other development in issue.

(a) The following graphic illustrates how to measure the URBZ:

(b) The URBZ provisions shall apply to:

(i) Any new development requiring a building permit, except for additions less than 20 percent of the existing building size that do not include any changes to an existing parking lot;

(ii) Any new development requiring site development approval;

(iii) Subdivision or the division of a tract or parcel of land into two or more parcels;

(iv) The improvement of property for any purpose involving construction;

(v) Combination of any two or more lots, tracts, or parcels of property for any purpose;

(vi) Placement of temporary structures that do not require a building permit or site development plan from the City;

(vii) The preparation of land for any of the above purposes.

(c) Specific submittal requirements are listed in Appendix One. Upon submittal of the complete application, with all supporting documentation as may be required, the City land use staff shall provide a review of the same. Following City land use staff review, administrative approval may be granted if the development proposal is an allowed use in the URBZ or applicable URBZ sub-zone, or is a use by right in the URBZ or applicable URBZ sub-zone, and meets all applicable standards. Development proposals which are not allowed uses or uses by right in the URBZ or applicable URBZ sub-zone, or do not meet all the applicable standards, shall be forwarded to the City Planning Commission for review and approval, under procedures set forth below, accompanied by any comments and recommendations from the City land use staff.

(d) All proposals shall identify on a site plan the designated Disturbance Envelope for that portion of the project that is proposed to encroach into the URBZ.

(e) The applicant shall mark and identify the Disturbance Envelope on the ground in the field and shall maintain construction barrier fencing around the entire perimeter of the Disturbance Envelope throughout the period of construction, until final landscaping is completed. The applicant shall ensure that all surface disturbances are contained within the designated and marked Disturbance Envelope.

(f) The URBZ consists of two sub-areas, as follows:

(i) Streamside Zone. This area is intended to preserve the natural riparian environment. In order to accomplish this goal, there is hereby established a 40-foot buffer area, measured as described above from the HWM.

Development in the Streamside Zone is subject to all other applicable permits. Setbacks created herein for the Streamside Zone are in addition to any setbacks which may be applied through the underlying zoning of a parcel.

(1) The following are subject to a 40-foot setback from the HWM (i.e., the following shall not be placed or performed within the 40-foot Streamside Zone):

(a) Planting of non-native grass turf;

(b) Removal of native vegetation;

(c) Erection of fences;

(d) Construction of hard-surfaced trails that parallel the river;

(e) Construction of buildings, other than irrigation pump houses;

(f) Construction of parking lots (paved or gravel);

(g) Construction or installation of lighting fixtures;

(h) Construction or installation of engineered/structural water runoff treatment facilities (such as concrete vaults);

(i) Concrete rip-rap;

(j) Construction or installation of any other facility not listed in the allowed uses below, and not reasonably compatible with the riparian environment.

(2) The following actions, or construction of the following facilities or structures, are permitted within the 40-foot Streamside Zone:

(a) Government buildings and facilities;

(b) Hard-surfaced trails roughly perpendicular to the river;

(c) Soft-surfaced trails (crushed gravel, etc.) whether parallel or perpendicular to the river;

(d) Irrigation facilities (including pump houses);

(e) Boat put-ins (boat ramps should be soft-surfaced);

(f) Planting of native vegetation;

(g) Bank stabilization, and river or wildlife habitat restoration;

(h) Other uses may be permitted that are directly related to the river, and that do not conflict with the intent of this Section.

(3) Exceptions to the above regulations for the Streamside Zone shall be granted or denied through the variance procedures set forth in Section 11-7-13.

(ii) Outer Zone. This area is intended to serve as a buffer between the Streamside Zone, and areas outside the URBZ. Most uses allowed within the underlying

zoning district are permitted within the Outer Zone, though certain uses have specific performance standards.

(1) Uses by right in the Outer Zone:

(a) Water runoff treatment structures using swales, native vegetation, and similar measures;

(b) Government buildings and facilities;

(c) Fences which allow the passage of wildlife; said fences shall be designed as follows:

(i) No more than 40 inches in height;

(ii) A smooth bottom wire at least 16 inches above ground;

(iii) At least 12 inches between the top two wires;

(iv) No sharp edges, barbs, or similar devices are permitted;

(v) Sheep or woven-wire and wrought-iron style fences with spiked tips are not permitted.

(d) Landscaping employing native vegetation types and compatible with the riparian environment;

(e) Single-family homes;

(f) Recreation trails (all types);

(g) Buildings and facilities complying with the underlying zoning district and complying with all of the following performance standards:

(i) Structures with windows occupying a minimum of 50 percent of the linear river frontage of the building; and

(ii) At least one public entrance directly facing the river; and

(iii) Outdoor common areas, seating and/or dining areas; and

(iv) High quality building finishes such as brick or stone, or earth tone colors having matte finishes; and

(v) Well concealed trash dumpsters; and

(vi) Total building facade length shall be less than 50 feet in length parallel to the river; and

(vii) Buildings and facilities complying with these performance standards are exempt from the river buffer screening requirements set forth below;

(viii) Single-family homes are exempt from these performance standards, except for Subsection (2) (f) (ii) (1)(c) of this Section, as well as the Outer Zone performance standards set forth below.

(2) The following uses shall not be considered a use by right in the Outer Zone, and are subject to review as Conditional Uses under Section 11-7-6 (B) and Chapter 11-4 of this Title:

(a) Loading docks;

(b) Landscaping with non-native vegetation;

(c) Engineered or structural water runoff treatment facilities (such as concrete vaults);

(d) Other industrial uses;

(e) Water treatment facilities employing structural vaults or similar technology are not permitted within the Outer Zone;

(f) Parking lots, whether paved or gravel;

(g) All other uses not listed in this Subsection.

(3) Outer Zone Performance Standards. If the use or structure does not meet the performance standards in Subsection (2) (f)(ii) (1)(g) of this Section, the following shall be required:

(a) A minimum 30-foot-wide vegetated buffer with extensive vertical plantings of native vegetation. Said vegetated buffer shall not overlap the 40-foot Streamside Zone.

(b) Tree height at maturity shall be as high or higher than the buildings being screened, and vegetation at maturity shall obscure any buildings or other facilities to the maximum extent possible.

(c) Said vegetated buffer shall be contiguous to the Streamside Zone, and located between the Streamside Zone, and any parking lot or building.

(4) General Standards Applicable within the Outer Zone.

(a) Removal of native vegetation is discouraged. Where removal of native vegetation is unavoidable, the removed area shall be mitigated by planting replacement native vegetation, at a minimum 1:1 ratio (measured in square feet, with a result that an equal amount of vegetation is planted, as was removed) within the URBZ.

(b) All setbacks oriented toward the river, applicable to or within the Outer Zone, shall be measured from the boundary line between the Streamside Zone, and the Outer Zone.

(c) For those zoning districts underlying the URBZ with no side or rear setbacks, the minimum side or rear setbacks shall be ten feet.

(d) New buildings, expansions to existing buildings, or parking lots, or driveways shall have a minimum setback of 20 feet from an existing or proposed trail or path.

(5) Exceptions to the standards and requirements regarding the Outer Zone shall be approved or denied through the procedures applicable to Conditional Uses, as set forth in Section 11-7-6 (B) and Chapter 11-4 of this Title.

(6) The following uses and structures are prohibited within the URBZ and its two sub-areas:

(a) Confined animal feedlots;

(b) Storage of hazardous materials or chemical fuels;

(c) Aboveground or underground petroleum storage facilities;

(d) Septic systems;

(e) Solid waste landfills;

(f) Junkyards, and salvage yards;

(g) Land application of biosolids;

(h) Subsurface discharges from wastewater treatment plants.

(7) All development within the URBZ shall obtain all applicable local, state and federal permits prior to undertaking any construction or land-disturbing activity.

(8) The provisions of the URBZ shall supersede the provisions of the underlying zone, and any other applicable overlay zone, when the provisions of the URBZ are more restrictive.

Sec. 11-7-11. Nonconforming uses, lots and structures

(A) Any use, building or structure which at the effective date of the ordinance from which this Title is derived or at the time of annexation, if annexed subsequent to the effective date of the ordinance from which this Title is derived, was lawfully existing and maintained in accordance with the previously applicable County or City regulations and ordinances but which does not conform or comply with all of the regulations provided in this Chapter, may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by this Section. Uses, structures, or buildings which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.

(B) If a use, building or structure is lawfully nonconforming in that it is not a use by right, or a conditional use which has been approved pursuant to the review provisions of Sections 11-7-6 (B) and 11-4-2 of this Title, the following shall apply:

(1) If the building or structure involved in the use is destroyed or damaged so that repair or reconstruction will cost more than 50 percent of the fair market value of the building or

structure after repair, it shall no longer be lawful to use the building or premises except in compliance with the use regulations for the district within which it is located.

(2) If the nonconforming use is abandoned or discontinued for a period of six months, then the premises may only be used in compliance with the use regulations for the district within which it is located.

(3) The use may be continued only substantially as it effective date of the ordinance from which this Chapter is derived or of annexation, and no material change in the type of use shall be allowed, unless the Planning Commission determines, following the review procedure provided in Section 11-4-2 of this Title, that the criteria set out in Section 11-7-6 (B) will be met, and that the new use is a more restrictive use than the existing nonconforming use. Any change in use allowed pursuant to this provision shall not affect the future status of the use as a nonconforming use for all purposes of this Section.

(4) The extent or area of the premises utilized for or by the nonconforming use, building or structure, may not be materially extended or enlarged, or substantially structurally altered, unless the Planning Commission determines, following the review procedure of Section 11-4-2 of this Title, that the criteria set out in Section 11-7-6 (B) will be met.

(C) If the use, building or structure is in compliance with the use regulations for the district within which it is located and is nonconforming only with respect to dimensional requirements, off-street parking requirements, or the regulations governing fences, hedges, walls, or canopies, the following provisions shall apply:

(1) If the nonconformity of the building, use, or structure is abandoned, removed, or corrected for any length of time, such nonconformity may not be re-established.

(2) If the building or structure is damaged so that the cost of replacing or restoring it is greater than 50 percent of its fair market value after replacement, the building or structure may be repaired or replaced only in compliance with these Zoning Regulations.

(3) If the building or structure is damaged in such a way as to remove the nonconformity, the nonconforming feature may not be re-established by any repair or reconstruction, unless it is unfeasible to repair the building without re-establishing the nonconforming feature.

(4) No alteration may be made to the use, building, or structure which would increase the amount or degrees of the nonconforming feature. Changes in the use, building, or structure may be made which will decrease the degrees or amount of deviation from the requirements of this Chapter.

(D) Nonconforming lots of record.

(1) In any district in which single-family dwellings are permitted, a single-family residence and customary accessory buildings may be erected on any single lot of record, provided that the lot is in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though the lot fails to meet the dimensional requirements of the district in which it is located for

area, width or both; provided, however, that the requirements of the district for minimum yard dimensions and lot coverage shall be met.

(2) If two (2) or more lots or combinations of lots and portion of lots with continuous frontage in single ownership are of record, and part or all of the lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the property together shall be considered to be an undivided parcel and no portion of the parcel shall be sold or used in a manner which diminishes compliance with minimum lot width and area requirements.

(E) This Section shall not apply to signs. Nonconforming signs shall be governed by the provisions of Section 11-10-3 of this Title.

Sec. 11-7-12. Rezoning.

(A) *Rezoning.*

(1) Amendments to the Official Zoning Map involving any change in the boundaries of an existing zoning district, or changing the designation of a district, shall be allowed only upon findings as follows:

(a) The amendment is not averse to the public health, safety and welfare; and

(b) The amendment is in substantial conformity with the Comprehensive Plan; or:

(i) The existing zoning is erroneous; or

(ii) Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.

(2) Rezoning may be requested or initiated by the City Manager or the owner of any legal or equitable interest in the property or his representative. The rezoning shall be reviewed for compliance with the criteria of this Subsection in accordance with the review procedures of Chapter 11-4 of this Title. The City Council may initiate rezoning on its own motion, in which case the Council shall hold a hearing either in conjunction with second reading of a rezoning ordinance, or separately, in substantial compliance with the review procedures of Chapter 11-4 of this Title.

(3) The City may impose conditions as necessary to ensure that the above criteria are met.

(B) *Zoning of Additions.*

(1) 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 procedures set out in Chapter 11-4 of this Title 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.

(2) The City may impose conditions on the zoning necessary to ensure that the above criteria are met and as appropriate to ensure comparability with the City's Comprehensive Plan.

(C) *Legislative Zoning.* Comprehensive review and re-enactment of all or a significant portion of the Official Zoning Map shall be a legislative action, and shall not be subject to the review procedures of Chapter 11-4 of this Title or any criteria set out in this Section.

(D) *Enactment by Ordinance.* No amendment, addition to or re-enactment of the Official Zoning Map shall become effective until enacted by an ordinance.

Sec. 11-7-13. Variances.

(A) The Planning Commission may grant a variance from the requirements set out in this Chapter, if it determines, following the review procedures of Chapter 11-4 of this Title, that the criteria of this Section will be met. Provided, however, no variance shall be granted from provisions restricting uses by right, accessory and conditional uses within any zoning district.

(B) Variances shall be granted only if all the following criteria are met:

(1) The variance will not adversely affect the public health, safety and welfare.

(2) Unusual physical circumstances shall exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property, and violations of code shown by clear and convincing evidence that they were made in good faith, which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.

(3) The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their or his predecessors in interest.

(4) The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.

(5) The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.

(C) The burden shall be on the applicant to show that these criteria have been met.

(D) Variances shall be granted for sign regulations only if all of the following criteria are met, in lieu of the criteria of Subsection (B) of this Section.

(1) The variance will not adversely affect the public health, safety and welfare.

(2) The variance requested is the minimum variance that will afford relief.

(3) The variance will not result in signage incompatible with other properties in the area and will not affect or impair the value, use of development of such properties.

(4) Strict compliance with the regulation presents practical difficulties or unnecessary hardships, and the variance sought falls within the spirit of the sign regulations (Chapter 10 of this Title) as a whole.

CHAPTER 11-8. SITE DEVELOPMENT STANDARDS

Sec. 11-8-1. Site development plan required.

(A) No building permit for new construction shall be issued until a site development plan has been approved pursuant to this Section, except for:

(1) Single-family and duplex residences;

(2) Farms or ranches;

(3) Any building addition less than 25 percent of the existing building size and less than 4,000 square feet; or

(4) Airport facilities subject to superseding federal regulations relative to site development.

(B) A site development plan shall be submitted with an application form provided by the City and fees paid as set forth in Section 3-1 of the City of Montrose Regulations Manual. The site development plan and application shall be submitted concurrent with a building permit application.

(C) The site development plan shall comply with all required subdivision improvement and design standards of this Title, and the engineering specifications of Chapter 9 of the Montrose Regulations Manual, as applicable.

(1) All improvements shall be constructed in accordance with the City Construction Standards.

(2) Required improvements shall include the installation of new, or repair of damaged, curb, gutter, and sidewalk along abutting streets. In those cases where the grade for curb, gutter and sidewalk cannot be established by the City or immediate construction is impractical, a recordable covenant binding the property to pay for such improvements may be accepted by the City in lieu of immediate construction of the curb, gutter or sidewalk.

(3) Any improvement, the construction of which has been secured pursuant to the subdivision regulations in Chapter 5 of this Title or by other contract, need not be provided as part of the site development plan.

(D) Following review, revision and approval by the City, the site development plan as approved by the City shall be revised in final form, stamped with City's approval and filed with the City. Thereafter a building permit may be issued.

(E) No occupancy permit shall be issued until the required improvements are constructed and approved by the City in compliance with the approved site development plan or secured for completion, and a recordable maintenance covenant running with the land on forms provided by the City is executed, approved by the City and recorded.

(F) All required improvements and landscaping shall be maintained in good repair and safe condition. Violation of this provision is hereby declared to be a nuisance which may be abated by the City in any lawful manner.

(G) Variances by the Planning Commission may be granted from the requirements of this Section if it determines that all the following criteria are met:

(1) The variance is requested for an addition to an existing building or construction of a purely accessory structure.

(2) The variance will not adversely affect the public health, safety or welfare.

(3) The addition or structure will have a de minimis effect on traffic, parking and drainage.

(4) The variance requested is the minimum variance that will afford relief.

(5) The variance will not result in development incompatible with other property or buildings in the area and will not affect or impair the value, use or development of other property.

(6) Strict compliance is technically infeasible or the cost of the required site improvements is substantially more than the cost of the addition or structure or the scope of the addition or structure is insignificant with respect to the structures already on the premises.

(H) Following approval of a site development plan, requests for amendments may be filed with the City and shall be reviewed in accordance with the provisions of Subsections (B), (C), (D) and (E) of this Section.

Sec. 11-8-2. Drainage system.

(A) This Subsection is intended to ensure that planning and design of drainage systems shall not be such as to transfer the problem from one property to another or to create a more hazardous or damaging condition downstream.

(B) Drainage shall be shown on the Site Development Plan, and shall be prepared by a licensed, professional engineer for proposed development sites above one acre in area, or when natural or existing drainage patterns are significantly altered, or when concentration of flow off-site is proposed, or when large impervious surfaces such as parking lots are proposed.

(C) Design of all improvements shall conform to City standards for storm drainage systems, including but not limited to Section 11-5-13 of this Title. Whenever possible, the flow shall be routed to a natural drainage or City storm drainage facility. All drainage systems designed to drain water from private property to City rights-of-way shall be approved by the City.

(D) Design of drainage systems shall be based on the level of protection required for various land uses; major drainage systems shall be based on the runoff expected from the 100-year storm, unless otherwise determined by the City. Drainage from a development shall not increase erosion or increase flooding problems in the receiving drainage. Drainage shall not degrade the quality of surface and groundwater by increasing sedimentation or by introducing other detrimental constituents.

(E) When a proposal would result in the alteration of natural or existing drainage patterns or the concentration of flow, an analysis prepared by a professional engineer must be, provided that demonstrates receiving drainage ways (either natural or manmade) have sufficient capacity to convey the altered flows without causing increased damage, hazard, or liability. The analysis shall address cumulative drainage effects, not only from the development but

also from other development within the same drainage basin. The concentration of flow or alteration of drainage patterns must not result in increased erosion to downstream properties.

(F) Acquisition of all permits required by state and federal authorities for work to be done within or adjacent to an established waterway, irrigation canal, drainage system, or designated floodplain or floodway is the sole responsibility of the applicant. A copy of these permits shall be attached to the application.

Sec. 11-8-3. Off-street parking.

(A) *Intent.* The intent of off-street parking requirements is to alleviate the need of residents, customers, employees or visitors of any use to park on the street in order to improve the safe and convenient movement of traffic on City streets.

(B) *Off-Street Parking.* Each lot or leased premises shall provide a minimum number of off-street parking spaces as specified in Table 8.1. If a use is not identified in the table, the City may determine the required minimum number of parking spaces.

Table 8.1

Minimum Number of Off-Street Parking Spaces by Use

Single-Family Homes and Duplex	Two Spaces per Dwelling Unit
Multifamily (three units and above)	One and a half spaces per dwelling unit
Assemblies, including, but not limited to, places of worship, other religious assemblies, movie theatres, performance theatres, entertainment venues, and funeral homes	One parking space for every six seats in main seating area or one parking space per 50 square feet if not permanent seating
Hospitals, Group Homes, Skilled Nursing and Assisted Living Facilities	One parking space for every three resident or patient rooms
Retail Stores, Service Establishments, General Office, General Business	Buildings under 10,000 square feet: One parking space per 250 square feet of gross floor area
	Buildings over 10,000 square feet: One parking space per 300 square feet of gross floor area
Restaurants and lounges, including restaurants with counter service	One parking space per 100 square feet of gross floor area
Drive-in and Drive-through Business	One parking space per 100 square feet of gross floor area, plus adequate room off-public right-of-way for four cars queuing at the window and behind the ordering location
Car Wash	One parking space for every bay, plus adequate room off public right-of-way for two cars queuing in front of each bay
Car Rental and Leasing	One parking space per 1,000 square feet of gross floor area

Car Dealerships and Automobile Repair or Service	One parking space per 375 square feet of sales and service building gross floor area
Day Care	One parking space per 375 square feet of gross floor area
Building Material and Lumberyard Businesses	One parking space per 375 square feet of sales and service building gross floor area
Hotels and Motels	One parking space for every guest room, plus one parking space per 600 square feet of meeting/conference area
Bed and Breakfasts	One parking space for every guest room, plus two parking spaces for each dwelling unit
Gas Stations, Auto Service Shops	Four parking spaces, plus one parking space for every enclosed auto stall
Bowling Alleys	Two and a half spaces per every 1000 square feet of gross floor area
Medical Clinics and Offices	Three parking spaces for each examination room
All Industrial; Wholesale Industrial	One parking space per 1,000 square feet of gross floor area
REDO District (Separate Application Required)	One space per dwelling unit
B-1 District	No off-street parking required

(C) *Bicycle Parking.*

(1) Bicycle parking is encouraged. Inverted "U" racks and "hitching post" styles are the most versatile and consume the least amount of space. Each "U" or "hitching post" rack is considered to provide two bicycle parking spaces.

(2) The required vehicular parking may be reduced by one vehicular space for each six bicycle spaces provided.

(a) Racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained. The design of bicycle racks and fixtures may be included in final site plans and should be separately marked.

(b) Bicycle parking spaces shall be located within 75 feet of the primary entrance to the building. Areas used for bicycle parking spaces shall provide an all-weather surface, have adequate drainage, and lighting. Bicycle parking may not be located where it would impede pedestrian movement.

(3) Bicycle parking spaces shall be a minimum six feet in length. Bike racks shall be separated a minimum of 30 inches side to side. Where more than one row of bicycle parking is provided, rows of bicycle parking shall provide a 48-inch minimum aisle.

(D) *General Requirements.*

(1) Parking spaces shall be sized and designed in accordance with standard City specifications, and the provisions of the site development requirements of this Section.

All spaces and maneuvering areas shall be paved and maintained in good and safe condition, subject to the following exceptions:

(a) Spaces required for employee parking in industrial zoning districts need not be paved if:

(i) The employee parking area is delineated and physically separated from the general public parking areas;

(ii) The employee parking area conforms to City specifications for street sub-base and base course, per plans to be approved by the City Engineer; and

(iii) General public parking and access areas in all cases shall be paved in accordance with City specifications.

(b) Equipment yards and storage areas in commercial and industrial zoning districts need not be paved if:

(i) Such areas are delineated and physically separated from general public parking areas;

(ii) The equipment and storage areas conform to City specifications for street sub-base and base course, per plans to be approved by the City Engineer; and

(iii) General public parking and access areas in all cases shall be paved in accordance with City specifications.

(c) Driveways or parking/maneuvering areas directly adjacent and accessing an unpaved public right-of-way need not be paved.

(2) Variances to these requirements shall only be allowed in strict accordance with the provisions of Section 11-7-13 of this Title. All variances shall require a restrictive covenant, enforceable by the City, to be recorded on forms approved by the City, limiting the use of the property accordingly.

(3) Shared parking lots are allowable as long as the aggregate spaces required are provided, and a recorded covenant or lease agreement or plat restriction, on forms approved by the City, allows for exclusive use of the parking by the premises, and further allow the City to enforce maintenance of the parking area.

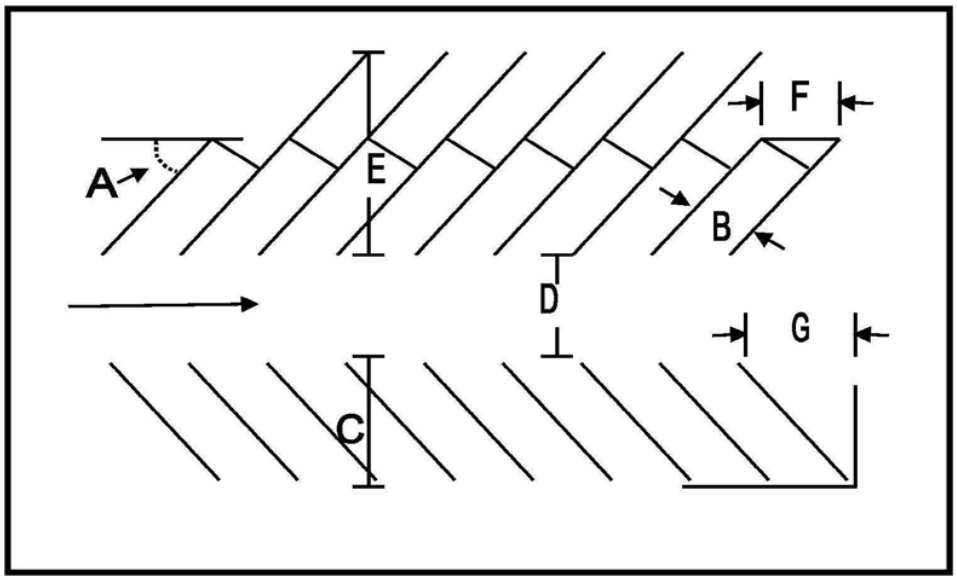
(4) Off-street parking requirements may be subject to partial credit of one space for every two spaces of lawfully developed on-street parking within the public right-of-way adjoining the premises, on local and collector streets, in accordance with the provisions of Section 4-1-13 of the City Code.

(E) *Site Development Requirements.*

(1) Unobstructed vehicular access to and from a public street shall be provided for all off-street parking areas. Vehicular access shall be provided in such a way as to protect the safety of persons using such access or traveling on the public street from which such access is obtained, and in such manner as to properly utilize the traffic-carrying capacity of the public street.

(2) The size, angle, and layout of parking stalls, aisles, and curbs shall conform to the dimensional standards set forth below:

A	B	C	D	E	F	G
Parking Angle	*Stall Width*	*Stall Depth*	*Aisle Width*	*Double Stall Depth*	*Curb Length*	*Excess*
0°	9'	9.0'	12'	N/A	23.0'	0.0'
30°	9'	17.3'	11'	26.8'	18.0'	30.0'
45°	9'	19.8'	13'	33.3'	12.7'	19.7'
60°	9'	21.0'	18'	37.5'	10.4'	12.1'
90°	9'	19.0'	24'	38.0'	9.0'	0.0'



(3) Adequate maneuvering space shall be provided for the safe and efficient movement of vehicles and pedestrians in parking areas.

(4) Off-street parking areas shall be located in the same lot or premises as the building or use for which they are required unless such spaces are provided collectively by two or more building or uses on adjacent lots and unless the total number of parking spaces supplied collectively is equal to the number of spaces required for the combined uses.

(5) In parking lot areas with more than a single driveway aisle, landscape islands shall be provided. These islands shall collectively comprise no less than six percent of the interior area of the parking lot, and shall each be large enough to accommodate a full size tree with no less than six feet for its longest base dimension.

(6) Parking lot islands shall be constructed with concrete curbing adequate to provide protection to the landscape area, and shall be constructed and located in such manner as to not obstruct visibility of intersecting aisles, maneuvering areas, entrances and exits, and pedestrian areas.

(7) Off-street parking shall be subject to the landscape provisions of Section 11-8-4 and shall be configured with the necessary setbacks.

(8) Parking spaces and accessibility for disabled persons shall be provided in accordance with ADA standards when applicable.

(9) Off-street parking areas shall be subject to the outdoor lighting requirements of Section 11-9-3 (C) of this Title.

Sec. 11-8-4. Landscaping.

(A) The purpose of these landscape requirements is to create an attractive environment which lends itself to the quality of life in the City of Montrose. It is contemplated that these requirements will result, over time, in the enhanced beauty of the City environment, the visual relief from large expanses of off-street paving in commercial and industrial areas, and the promotion of quality development which contributes to the image of the overall community. To this end, well-designed and maintained landscaping is strongly encouraged in all developments, and the requirements set forth below should be regarded only as minimum requirements toward establishing these objectives.

(1) All landscape areas shall consist of at least 80 percent living plant material, unless otherwise approved as part of the overall Site Development Plan. Living plant material shall be projected to maturity in determining area coverage (or seasonal peak growth for flowers).

(2) Non-plant material such as rock or wood chips, may be used to cover up to 20 percent of the landscape area, unless otherwise approved as part of the overall Site Development Plan.

(3) Newly installed landscape parcels in excess of 800 square feet shall include a properly designed and functioning automatic irrigation system providing full coverage to all plant material. All landscape areas not requiring an irrigation system shall be within close proximity of an adequate water supply. It is recommended that plants with similar water requirements be grouped together, and mulches are suggested for all planting beds due to the highly inorganic nature of the soils in this area. Steep grades shall be minimized and erosion shall be prevented in all circumstances.

(4) To the extent necessary to establish suitable planting beds, the soil should be properly tilled and prepared prior to installation of the landscaping.

(B) The following requirements shall apply in determining landscape areas:

(1) For all lots, a minimum of 25 percent of the linear frontage of the developed site abutting public rights-of-way, excluding alleys, unexcavated streets and rights-of-way not currently used for public travel, shall be landscaped to a depth of no less than 15 feet, unless the City approves an alternative plan as presenting a more effective landscape view. For example, alternative designs such as the use of planters shall be considered. Such frontage landscape areas shall be utilized in calculating the minimum area requirements set forth in Subsection (B)(2) of this Section.

(2) Inclusive of the above frontage requirement, landscaping shall meet the following minimum space requirements. These percentages represent the overall minimum space requirements for landscaping:

(a) For lots in Residential Zoning Districts, a minimum of 15 percent of the entire lot size not covered by buildings shall be landscaped.

(b) For lots in Commercial Zoning Districts, a minimum of eight percent of the entire lot size not covered by buildings shall be landscaped.

(c) For lots in Industrial Zoning Districts, a minimum of four percent of the entire lot size not covered by buildings shall be landscaped.

(3) In all landscape areas, the plant materials shall not conflict with existing or proposed public utilities. For example, deep root species shall be avoided in places with underground utilities.

(4) In parking lot areas with more than a single driveway aisle, landscape islands shall be provided. These islands shall collectively comprise no less than six percent of the interior area of the entire parking lot area, and shall each be large enough to accommodate a mature tree, and no less than six feet in its longest base dimension.

(a) Parking lot islands shall be dispersed so to provide visual relief from large expanses of pavement and adequate tree shading.

(b) Each island shall include at least one tree, and shall be subject to the 80 percent ground coverage requirement set forth in Subsection (A)(l) of this Section unless otherwise approved as part of the overall Site Development Plan.

(c) Parking lot islands shall be constructed with concrete curbing adequate to provide protection to the landscape area, and shall be constructed and located in such manner as to not obstruct visibility of intersecting driveway aisles, maneuvering areas, entrances and exits, and pedestrian areas.

(5) Commercial and industrial storage areas (i.e., loading dock areas, yards and warehouses) shall be screened from:

(a) Adjoining public rights-of-way, excluding alleys, unexcavated streets and rights-of-way not currently used for public travel; and

(b) Adjoining residential areas. Screening shall be effectuated by use of landscaping and/or structural features such as berms and opaque fencing. Retail facilities such as car dealerships and rental businesses are not considered commercial storage areas for the purposes of this Subsection. In instances where landscape screening is utilized, emphasis shall be placed on evergreen species which effectively provide year-round screening.

(6) All trash receptacle areas in commercial, industrial or residential areas, excluding alley ways, shall be enclosed so as to effectively provide screening of the trash containers, or located in such a manner so as to eliminate view from adjoining rights-of-way and residential areas. Screening and/or location of trash receptacles shall, in all instances, allow for vehicular access for trash removal.

(C) Each landscape area shall include a variety of plant types which are regarded as suitable for this climate. Creative and attractive design is encouraged. Additionally, the following minimum quantities of trees and shrubs shall be required for all site developments:

(1) On all frontage property subject to the 25 percent requirement set forth in Subsection (B)(l) of this Section, one tree shall be planted for every 30 linear feet of frontage, subject to the visibility requirements in Subsection (E) of this Section.

(2) No less than one tree and three shrubs shall be required for every 800 square feet of the entire landscape area. This requirement represents an overall minimum tree requirement, and shall be inclusive of trees planted in frontage areas pursuant to Subsection (C)(l) of this Section and trees planted in parking lot islands pursuant to Subsection B (4) of this Section.

(D) For properties with existing landscaping prior to development or modification, the existing landscaping, to the extent that it conforms with these Site Development Standards, shall be accounted in determining whether the above spatial requirements and minimum tree and shrub requirements are satisfied.

(E) In areas critical to pedestrian and vehicular traffic, shrubs and other plants must be installed and maintained to provide clear visibility. On-site comers abutting intersecting roadways, all landscaping shall be limited to natural turf, ground cover or shrubs below 42 inches above the level of the roadway for a distance of at least 25 feet along each side of the comer, or 50 feet along arterial or collector streets. Landscaping near entries intersecting roadways shall also be subject to this same restriction.

(F) Use of the Right-of-Way for Landscaping.

(1) The owner of the abutting property is encouraged to landscape those portions of abutting street right-of-way not being used for street, sidewalk, bike path or other public purposes.

(2) Existing landscaping, including ground cover, turf, trees, and shrubs may not be removed unless such removal is approved by the City.

(3) The use of irrigated ground cover, turf, flowering plants, shrubs and trees is encouraged. Xeriscape landscaping making substantial use of low water-consumptive plant species and non-plant materials such as decorative rock is permissible, subject to Subsection (H) below and the following condition:

(a) At least ten percent of the xeriscape area is covered with living plant material, and the xeriscape area is planned and constructed in such a manner as to enhance compatibility with other abutting landscaped areas.

(G) The property owner of record, or homeowner's association where applicable, shall be ultimately responsible for landscape maintenance. All landscape shall be continuously maintained including necessary watering, weed removal, litter removal, pruning, pest control and replacement of dead or diseased plant material. Replacement or dead or diseased plant material shall be of the same type of plant material as set forth in the approved landscape plan (i.e., a tree must be replaced with a tree), and all replacement must occur with due diligence, but in no event shall it occur in more time than one year.

(H) The following Materials Standards shall be required:

(1) All plant materials shall be acclimated and selected for their adaptability to local conditions.

(2) The minimum size and characteristics of plant materials at the time of planting shall be as follows:

(a) Deciduous trees: 1 ½-inch caliper, measured six inches above ground.

(b) Coniferous trees: Six feet in height.

(c) Deciduous and evergreen shrubs: Five-gallon size.

(d) Ground covers and vines: One-gallon size; except for junipers and other shrub-like ground covers, which shall be five-gallon.

(3) All plant materials must meet specifications of the American Association of Nurserymen (AAN) for number one grade. The AAN Standards are on file with the City, and available for review.

(4) No thorny shrubs or trees (Russian Olive) shall be allowed in areas near or adjoining pedestrian sidewalks or recreation areas.

(5) The planting of any trees of the Ulmus genus (i.e., Elm) shall be prohibited, except for certified variety resistant to Dutch Elm Disease.

(6) Box Elder (Acer negundo) and all trees of both the Salix genera (Willow) and Populus genera (Cottonwood), excluding Aspen (Populus tremuloides) and Narrowleaf Cottonwood (Populus angustifolia), shall not be planted within 15 feet of a public right-of-way.

(I) In instances where non-plant materials are to be used in landscape areas by City approval, underlying weed barriers (geotextile fabric) shall be applied. The following requirements shall also apply:

(1) If rock or stone is being applied, it must be one to three inches in size, and applied to a minimum of three inches in depth. If redwood bark or woodchips are being applied, the depth must be at least three inches.

(2) All landscape timbers or railroad ties must be new, unless specified otherwise by the City, and must be pressure-impregnated with a wood preservative meeting federal standards.

(3) The applicability of any specific deviation in spatial requirements and plant material quantities shall be evaluated on its own unique site-specific condition and in reference to the design and content of the overall Site Development Plan, the relationship of adjacent land uses and overall landscape architectural character of the surrounding area.

(J) All landscape installation shall be done in accordance with Section 4-6-8 of the Montrose Regulations Manual.

Sec. 11-8-5. Screening and buffering.

(A) Screening shall be required between a nonresidential, commercial or industrial use located in any zone and an adjacent residence located in the "OR" or other residential zoning districts, if the residence was in use as a residence prior to the commencement of the commercial use, and the commercial use will create or is creating unreasonable noise, dust, odor, emanation of light or other conditions which are incompatible with the reasonable enjoyment of the abutting premises as a residence and such conditions can be ameliorated by the erection of screening.

(B) The screening shall be of a type and design meeting the requirements of the City standards, which will provide significant relief to the affected residence without undue hardship to the commercial activity. Tall thick hedges may be used in lieu of artificial screening.

Sec. 11-8-6. Fences, hedges and walls.

(A) No fence may be installed until a fence permit has been approved pursuant to this Section. The permit fee will be set pursuant to the City regulation manual.

(B) For all uses in residential districts, fences and free-standing walls shall not exceed four feet in height when located within the required front yard setback and six feet elsewhere. An eight-foot fence may be used in back yards if it does not impede visibility.

(C) For all uses in commercial and industrial districts, fences and freestanding walls shall not exceed four feet in height when located within the required front yard setback and eight feet elsewhere. An additional two feet shall be allowed for barbed wire where it meets the requirements of Subsection (E) of this Section.

(D) No fence, free-standing wall, hedge or other plantings shall be located, constructed, or maintained in such a way as to obstruct the view of abutting streets or intersections by motorists and pedestrians

(E) Electrically charged fences are allowed within the City only if in a location made inaccessible to persons, who would not know the fence is electrified, by virtue of another fence or structure.

(F) Barbed wire fences are allowed in industrial and commercial districts only if the barbed wire is a minimum of six feet above the ground. No barbed wire fence may be maintained in other districts unless necessary to confine livestock lawfully kept within the City.

(G) Temporary fences installed to provide security and protection around a construction site are permitted and need not be in conformance with the standard height requirements set forth in Subsections (B) and (C) of this Section.

(H) Chain link and similar type fencing of open wire material which does not obstruct views around sports facilities and which is installed for security and safety, sports play, including, but not limited to, tennis courts, baseball outfields, backstops, batting cages, and golf courses are not subject to the height requirements set forth in Subsections (B) and (C) of this Section.

Sec. 11-8-7. Canopies and Awnings.

No canopy or other permanent structure, other than an awning unsupported by the ground, or a sign allowed under the provisions of Chapter 11-10 of this Title, may project over any public right-of-way, except one within a "B-1" district which meets the criteria of this Subsection.

(1) A permit shall be obtained for any awning projecting over any public right-of-way in the B-1 district from the City.

(2) All awnings shall be a minimum of eight feet above the grade of the right-of-way. No awning shall extend past the curb of the City right-of-way.

(3) No awning may be installed, permitted or maintained which interferes with City landscaping, streetscape, lights, signs or other use of the right-of-way, or extends over an alley right-of-way.

(4) No vested right to maintain an awning extending over or upon the public right-of-way shall ever be acquired, and the City may require it to be removed or remove it at any time for any reason in its sole discretion.

Sec. 11-8-8. Highway corridor standards.

(A) Property located within 400 feet of a right-of-way line of U.S. Highway 50, east of Hillcrest and north of North 9th Street; of U.S. Highway 550, south of East Oak Grove Road; and of Highway 90 west of the Uncompahgre River; and of North San Juan Avenue between Main Street and Townsend Avenue, shall be subject to the following supplemental site development standards in addition to other applicable requirements. Whichever City ordinance or regulation requires the more stringent or restrictive requirement shall apply.

(1) No building or structure other than fences may be constructed within 50 feet of a highway right-of-way, except in the following circumstances:

(a) A variance is granted pursuant to Section 11-7-13 of this Title.

(b) The property is on a lot approved as part of a prior-approved City subdivision which provides for different setbacks or setbacks in accordance with City zoning dimensional standards.

(2) No fence, freestanding wall, or berm located within 50 feet of a highway right-of-way shall exceed four feet in height above grade, except for screening required by state or federal law or City ordinances or regulations.

(3) No building or structure shall exceed 40 feet in height or the maximum height set out in City zoning dimensional requirements, whichever is more restrictive, unless a variance is granted pursuant to Sections 11-7-13 of this Title.

(4) Building facades which are constructed of smooth-face concrete, smooth-face concrete block, metal siding, or similar monolithic building materials in a flat plane, shall be designed to include other surface materials (in a minimum amount of 25 percent of the building's wall area facing or clearly visible from a public right-of-way, public park, or public open space), which may include, but are not limited to, contrasting materials such as brick, stucco, wood or stone veneers. Other architectural elements must also be included in the design, which include, but are not limited to, architectural projections such as dormers, roof overhangs, protective canopies, and creatively shaped window openings.

(5) Exterior mechanical equipment shall either be incorporated in the overall form of the building or screened from view from any street by materials consistent with the landscaping and the main building.

(6) Refuse collection containers and areas shall be screened from view from any street or residential area by materials consistent with the landscaping and building.

(7) *Landscaping.*

(a) Landscaping shall be installed and maintained to a minimum depth of 15 feet along 70 percent of the state highway frontages, excluding driveways and sidewalks. Such landscaping shall consist of trees, shrubs, and ground covers, and may include up to a maximum 20 percent coverage in inert materials such as decorative paving stones, lava rock, pea gravel, etc.

(b) Landscaping shall be installed and maintained to a minimum depth of 15 feet along a minimum of 25 percent of the secondary street frontages, excluding driveways and sidewalks. Such landscaping shall consist of trees, shrubs, and ground covers, and may include up to a maximum 20 percent coverage in inert materials such as decorative paving stones, lava rock, pea gravel, etc.

(c) Parking areas located on the front or side of a building with 25 or more spaces shall incorporate landscaped islands disbursed throughout the parking with areas totaling a minimum of six percent of the parking area.

(B) The regulations of this Section shall apply to the entire building, lot, parcel or contiguous lots or parcels which constitute a single site, when any part thereof is located within 400 feet of the right-of-way of the highway segments described in Subsection (A) of this Section.

(C) The standards of this Section shall be applied to all site development plans processed by the City pursuant to Section 11-8-1.

(D) Any use, parcel, building or structure which at the effective date of the ordinance from which this Section is derived or at the time of annexation, if annexed subsequent to the effective date of the ordinance from which this Section is derived, was lawfully existing and maintained in accordance with the previously applicable county or City regulations and ordinances but which does not conform or comply with all of the regulations provided in this Section, may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by Section 11-7-11(C) of this Title. Uses, parcels, structures or buildings which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.

Sec. 11-8-9. Large retail development standards.

(A) The following standards shall apply to large retail developments within the City. These standards shall apply to all projects or developments for retail establishments of more than 10,000 square feet of gross floor area.

(B) The regulations of this Section shall apply to the entire building, lot, parcel or contiguous lots or parcels that constitute a singular site development.

(C) No building permit for new construction of large retail establishments, or additions to existing retail establishments which would increase the gross square feet of floor area by 50 percent or more and result in the creation of a large retail establishment, shall be approved unless a site development plan for large retail establishment has been reviewed and approved by the City in accordance with the review process as defined herein.

(D) A large retail development shall comply with the following architectural requirements:

(1) Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plan projections or recesses having a depth of at least three percent of the length of the facade and extending at least 20 percent of the length of the facade.

(a) No uninterrupted length of any facades that face public streets shall exceed 100 horizontal feet.

(b) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features comprising no less than 60 percent of their horizontal length.

(c) Building facades shall include color changes and texture changes as more specifically set forth in Subsection (3) below. For the purpose of these provisions, the term "facade" means the portion of any exterior elevation on the building extending the entire length of the building.

(2) Roofs shall be designed to include parapets to conceal flat roofs and rooftop equipment such as HVAC units. Roofs shall be designed with sloped planes and overhanging eaves as more specifically set forth in Subsection (4) below.

(3) Buildings should have architectural features and patterns that provide visual interest, promote pedestrian traffic, and reduce massive aesthetic effects. Toward these objectives, building facades shall include the elements listed below, and as depicted in Figures 8.1 and 8.2.

(a) A repeating pattern that includes no less than three of the following, at repeated intervals of no more than 30 feet horizontally or vertically:

(i) Color change;

(ii) Texture change;

(iii) Material module change;

(iv) An expression of architectural or structural bays through a change in plane no less than 12 inches in width, such as an offset, reveal or projecting rib, as depicted in Figure 8.3.

(b) Evergreen trees shall be planted at intervals of no greater than 20 feet.

Figure 8.1

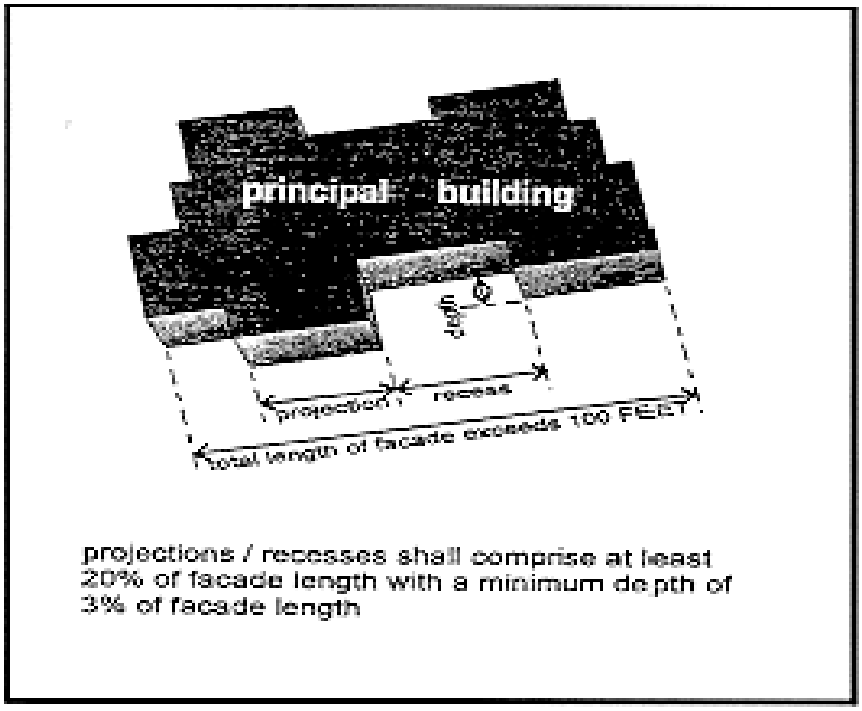


Figure 8.2

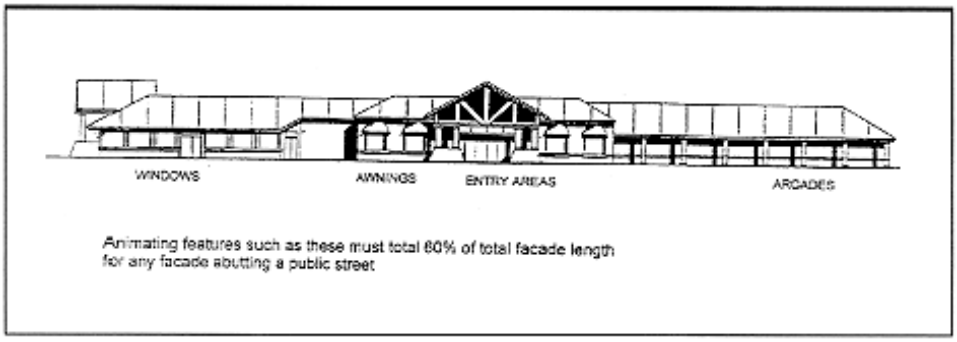
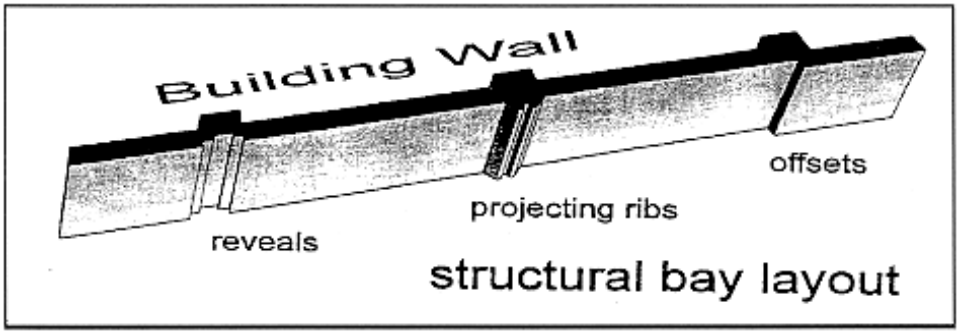


Figure 8.3



(4) *Roof Lines.* Variations in rooflines should be used to add interest to, and reduce the massive scale of large buildings. Toward these objectives, roofs shall have at least two of the following features:

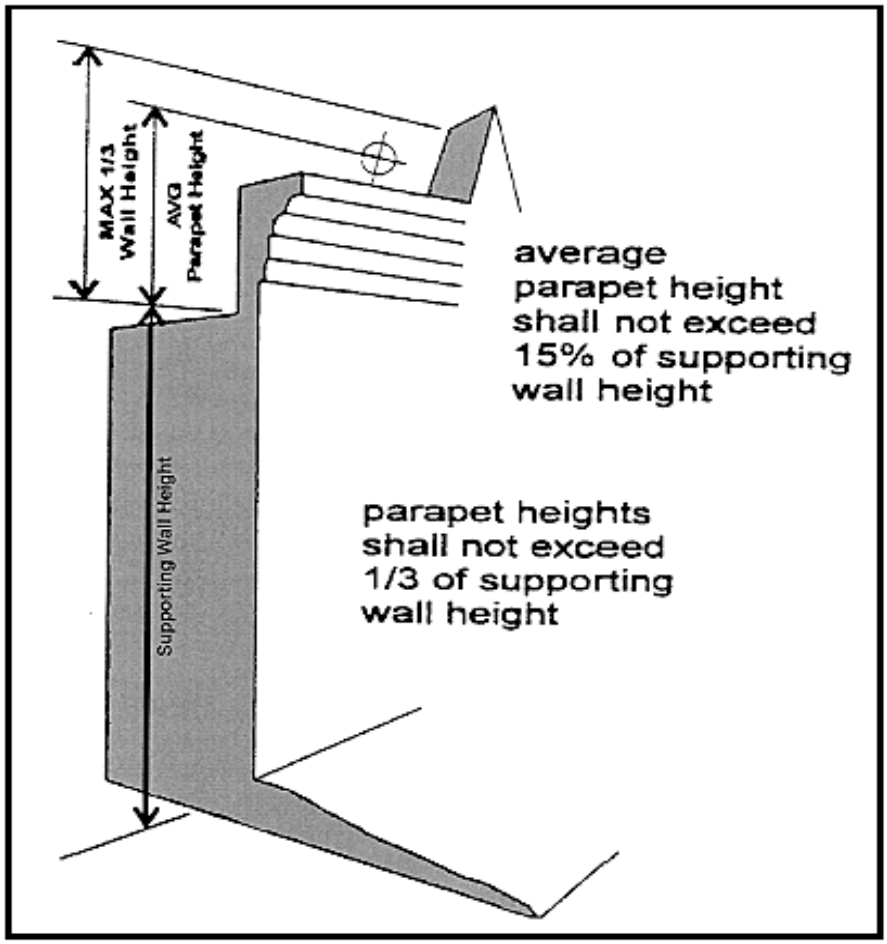
(a) Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The term "parapets" means those portions of the wall that extend above the roofline. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three - dimensional cornice treatments. These elements are illustrated in Figure 8.4.

(b) Overhanging eaves, extending no less than three feet past the supporting walls for no less than 30 percent of building perimeter.

(c) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every one foot of horizontal run.

(d) Three or more roof slope planes.

Figure 8.4



(5) *Materials and Colors.*

(a) Exterior building materials and colors comprise a significant part of the visual impact of a building. The aesthetic effect should be compatible with the surrounding landscape. Predominant exterior building materials shall be high quality materials, and include, without limitation, brick, wood, sandstone, other native stone, and tinted, textured concrete masonry units.

(b) Facade colors shall be of low reflectivity, and shall be subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

(c) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be allowed for such purposes.

(d) Predominant exterior building materials shall not include smooth-faced concrete units, tilt-up concrete panels, or pre-fabricated steel panels.

(6) *Entryways.* Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. Toward these objectives, each principal building on a large retail site shall have clearly defined, highly visible customer entrances featuring no less than three of the following:

(a) Canopies or porticos;

(b) Overhangs;

(c) Recesses and/or recessions;

(d) Arcades;

(e) Raised corniced parapets over the door;

(f) Peaked roof forms;

(g) Arches;

(h) Outdoor patios;

(i) Display windows;

(j) Architectural details such as tile work and moldings that are integrated into the building structure and design;

(k) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

(E) A large retail development shall comply with the following off-street parking requirements:

(1) Off-street parking shall be designed so that no more than 60 percent of the total off-street parking for the site devoted to the large retail establishment is located between the front facade of the large retail establishment and the abutting street, unless all of the conditions and standards set forth in Subsection (A) of this Section are met;

(2) Up to 80 percent of the total off-street parking for the site devoted to the large retail establishment may be located between the front facade of said establishment and the

abutting street, when the City determines that all design standards set forth below have been met:

(a) Landscaping shall be increased to 12 percent of the large retail establishment's site, not including areas of the site occupied by building footprints; and

(b) Two- to four-foot undulating berms shall be provided directly adjacent to a minimum of 80 percent of the parking lot boundaries that abut public streets; and

(c) Every third parking aisle shall be provided with a continuous eight-foot dedicated pedestrian path through the parking lot. Unless specifically stated otherwise in a plat note or agreement with the City, maintenance of said pedestrian path shall be the responsibility of the owner or occupant of the large retail site.

(F) Any retail establishment or development having greater than 25,000 square feet of gross floor area shall be subject to a 35-foot setback from the establishment's or development's facade to the nearest property line.

(G) Where the large retail establishment adjoins residential uses, an earthen berm, no less than six feet in height, containing evergreen trees so as to provide effective visual screening of the establishment, shall be provided.

(H) Areas for outdoor storage, truck parking, trash collection, loading or other such uses shall be effectively screened from abutting streets and adjoining residential neighborhoods.

(1) Appropriate locations for loading and outdoor storage areas shall include areas between buildings, where more than one building is located on a large retail site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.

(2) No areas for outdoor storage, trash collection or compaction, loading or other such uses shall be located within 20 feet of any public street, public sidewalk, or internal pedestrian walkway.

(3) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building and the large retail site development so that the visual and acoustic impacts from those functions are fully contained and out of view from adjacent properties and public streets, and shall be made of the same materials as the principal building structure.

(4) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and fences. Materials, colors, and designs of screening walls and/or fences, as well as the cover, shall conform to those used as predominant materials and colors of the building.

(5) The applicant for the large retail site development shall submit evidence that sound barriers between all areas for delivery and/or loading operations effectively reduce noise emissions to a level of 45 dB, as measured at the lot line of any adjoining property. No delivery, loading, trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the aforementioned standard is met.

(6) Outdoor vending machines shall be screened from adjoining properties and/or public streets.

(I) Sidewalks at least six feet in width shall be provided along all sides of the site that abuts a public street. Continuous internal pedestrian sidewalks, no less than six feet in width shall be provided from those sidewalks along public streets to the principal customer entrance. Sidewalks no less than eight feet in width shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting parking areas. All sidewalks shall remain unobstructed.

(1) Required internal pedestrian walkways shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances.

(2) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the development.

(J) Bicycle racks shall be provided with each large retail development, with a capacity of bicycle space as calculated by one space for each ten automobile parking spaces.

(K) Each large retail development shall provide a minimum of one transit stop, which may be incorporated into a pedestrian plaza. The transit stop should provide easy accessibility to transit vehicles and provide the following elements, at a minimum:

(1) Three seating benches. Two-thirds of the total seating shall be located indoors; one-third shall be located in an outdoor seating area, which shall be enclosed on three sides.

(2) Pick-up/drop-off area.

(3) Defined curb pull-out/parking lane for transit vehicles, a minimum of 50 feet in length.

(4) The transit stop area shall be dedicated to that purpose, and not utilized for storage or display of merchandise.

(L) All outdoor and exterior lighting shall comply with Chapter 11-9 of this Title.

(M) All required improvements shall be maintained in good repair and safe condition. Violation of this provision is hereby declared to be a nuisance which may be abated by the City in any lawful manner.

(N) Variances by the Planning Commission may be granted from the requirements of this Section if it determines that all of the criteria below are met:

(1) The variance will not adversely affect the public health, safety and welfare.

(2) Unusual physical circumstances shall exist, such as unusual lot size or shape, topography or other physical conditions peculiar to the site which make it infeasible to develop or use the site in conformity with the provisions of this Chapter.

(3) The unusual circumstances have not been created as a result of the action or inaction of the applicant, other parties in interest with the applicant, or predecessor in interest.

(4) The variance requested represents the minimum variance that will afford relief and allow for reasonable use of the property.

(5) The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.

(6) An alternative site planning and building design approach has been submitted which substantially meets the objectives of the standards and regulations as provided herein.

The burden shall be on the applicant to show that these criteria have been met. The review procedures as set forth in Section 11-7-13 of this Title shall apply.

(O) Any use, parcel, building or structure which at the effective date of the ordinance from which this Section is derived or at the time of annexation, if annexed subsequent to the effective date of the ordinance from which this Section is derived, was lawfully existing and maintained in accordance with the previously applicable county or City regulations and ordinances but which does not conform or comply with the regulations as provided in this Section, may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by Section 11-7-11(C) of this Title. Uses, parcels, structures or buildings which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.

CHAPTER 11-9. OUTDOOR LIGHTING

Sec. 11-9-1. Applicability.

This Chapter applies to the following new development, construction, and changes in use, excluding single-family dwelling units, farms and ranches:

(1) For subdivisions, deviations from the standards set forth herein may be granted pursuant to Section 11-5-14 of this Title.

(2) For new construction or additions to existing structures, or for any action that requires a sign permit or coordinated sign plan, variances from the standards set forth herein may be granted pursuant to Section 11-8-1 of this Title.

(3) For rezones and conditional use permits, variances from the standards set forth herein may be granted pursuant to Section 11-7-13 of this Title.

(4) Where a use located within a commercial or industrial zone, other than a single-family residence, farm or ranch, is abandoned or discontinued for a period in excess of six months, all outdoor and exterior lighting shall be brought into compliance upon resumption of the prior or a substantially similar use, or upon issuance of a building permit.

Sec. 11-9-2. Lighting plan required.

A lighting plan shall be submitted for all construction or development subject to the requirements of this Chapter. The submission shall contain four complete sets of the following:

(1) The location and types of all outdoor and exterior lighting and fixtures, both existing and proposed on the premises, including point by point lighting level print-outs, with calculation areas delineated where required. Where requested by the City, the plan shall also include a mounting height, mounting method, location, type, lumen output, manufacturer's catalog cuts, photometric report with candela distribution, and shielding information;

(2) The above-required plans and descriptions shall be sufficiently complete to enable the City to readily determine whether compliance with the requirements of this Chapter are met. If such plans, descriptions and data cannot enable this determination, the applicant shall submit further evidence of compliance, as required by the City.

Sec. 11-9-3. Lighting standards.

(A) Exterior and outdoor lighting, including illuminated signs, shall be designed, located, installed and directed in such a manner as to prevent light trespass, up-light and glare at any location on or off the property. All such lighting shall be full cut-off fixtures with the light source fully shielded, with the following exceptions:

(1) Luminaires that have a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.

(2) Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60-watt incandescent light) may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.

(3) For security purposes, floodlights with external shielding may be angled, provided that no light escapes above a 25-degree angle, measured from the vertical line from the center of the light extended to the ground, and only if the light does not cause glare or light to shine on adjacent property or public rights-of-way. Floodlights with directional shielding, photocells with timers, and motion sensor devices are encouraged.

(B) In addition to Subsection (A) of this Section, street lights shall comply with the following:

(1) Street lights along both residential and nonresidential streets shall be limited to a 100-watt high pressure sodium (hps) light, except lights at the intersection of arterial and/or collector streets shall be 250-watt hps.

(2) The mounting height for street lights shall not exceed 16 feet from ground level for fixtures that do not protrude over the street, and 30 feet from ground level for fixtures which do protrude over the street.

(C) In addition to Subsection (A) of this Section, parking area lights shall comply with the following:

(1) Parking area lights shall be no higher than 25 feet above the stand/pole at ground level.

(2) With the intent of minimizing light pollution and glare, all parking area lights are encouraged to be greater in number, lower in height, and lower in light level, as opposed to fewer in number, higher in height and higher in light level.

(D) The maximum height for light fixtures used to light pedestrian walkways, crossings, or trails shall be no higher than 16 feet above the stand/pole base at ground level.

(E) All other freestanding luminaires, including the fixture, shall be no higher than 25 feet above the stand/pole base at ground level, except that luminaires used for playing fields shall be exempt from the height restriction, provided all other provisions of this Chapter are met and the light is used only while the field is in use.

(F) Building-mounted luminaires shall be attached only to walls, and the top of the fixture shall not exceed 16 feet in height above ground level.

(G) Light fixtures mounted on canopies shall be surface or recessed so that the lens is flush with the bottom surface of the canopy. Lights shall not be mounted on the top or side of the canopy. The face of the canopy shall not be illuminated for any purpose with the exception of internally illuminated signage, which shall comply with the provisions of Chapter 10 Signs of this Title.

Sec. 11-9-4. Exemptions.

The following luminaires and lighting fixtures are exempt from the requirements of this Chapter:

(1) Holiday lights;

(2) Illuminated signs or other lighting installed for the benefit of public health, safety and welfare;

(3) Airport lighting;

(4) Emergency lighting, providing such lighting is temporary and is discontinued upon completion or abatement of the emergency;

(5) Lighting of the American Flag, provided all such lighting shall be selected and installed to shield the lamps from direct view to the greatest extent possible, and to minimize upward lighting and light trespass.

CHAPTER 11-10. SIGNS

Sec. 11-10-1. Purpose and intent.

(A) It is the purpose of this Chapter to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements. The provisions in this Chapter are intended to:

(1) Enable the identification of places of residence and business.

(2) Allow for the communication of information necessary for the conduct of commerce.

(3) Lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.

(4) Enhance the attractiveness and economic well-being of the City as a place to live, vacation and conduct business.

(5) Protect the public from the dangers of unsafe signs.

(6) Permit signs that are compatible with their surroundings and aid orientation, and preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs.

(7) Encourage signs that are appropriate to the zoning district in which they are located.

(8) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains.

(9) Preclude signs from conflicting with the principal permitted use of the site or adjoining sites.

(10) Regulate signs in a manner so as to not interfere with, obstruct vision of or distract motorists, bicyclists or pedestrians.

(11) Ensure the fundamental First Amendment right of free speech is recognized and protected in the City's regulation of signs, within the guidelines provided by controlling court decisions.

(B) If any part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Chapter and/or any other provisions are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the validity or enforceability of any other prohibition herein.

Sec. 11-10-2. General provisions.

(A) Off premise signs, as defined in Section 11-15-7 of this Title are not permitted, with only the following exceptions:

(1) Signs within the boundary of a new subdivision unless less than ten percent of the lots remain for initial sale.

(2) Signs on City-owned property, unless otherwise provided in this Chapter.

(3) Signs within outdoor athletic venues, such as ballparks, golf courses, football fields, and soccer fields which are directed to spectators and participants in a manner to minimize visual impact outside of the athletic venue.

(4) Signs included within a coordinated sign plan.

(5) Signs approved in accordance with a Special Event sign permit.

(B) No sign shall be located so that the safety of a moving vehicle or pedestrian will be impaired by obscuring their vision or obstructing their travel.

(C) The color or format shall not resemble or conflict with traffic signs or signals, as shown or described by the Manual of Uniform Traffic Control Devices (MUTCD), as amended from time to time.

(D) All signs must be maintained in good repair. Temporary signs not maintained in good condition, including, but not limited to, those that have faded, torn, become tattered, droopy, hazardous, or untethered, shall be removed or repaired. Temporary signs not maintained in good condition shall be considered a nuisance, and may be abated by the City in accordance with the City's nuisance abatement procedures.

(E) Illumination of signs shall be arranged to reflect away from residential properties, and shall otherwise comply with Chapter 9 Outdoor Lighting of this Title.

(F) All signs shall be located on a premises with a permanent building consisting of a foundation.

Sec. 11-10-3. Nonconforming signs.

(A) The following nonconforming signs may continue to be used and maintained only in accordance with and subject to the limitations, criteria and requirements of this Section:

(1) Signs which were or are lawfully erected and maintained under applicable existing federal, state and County regulations prior to and at the time of annexation to the City and which have been or are maintained as legally nonconforming signs in accordance with City regulations thereafter.

(2) Signs which were or are lawfully erected and maintained in accordance with City sign regulations in effect at the time of their erection, but which became or become nonconforming on account of subsequent amendment to the City sign regulations.

(3) Signs which would otherwise not be permitted may be temporarily allowed, for a period of up to 12 months, in the discretion of the City Manager, if an emergency, hardship, or new business in that location requires such temporary forbearance from this Chapter, and the owner submits a cash escrow in the amount of 150 percent of the estimated cost, to the City for installation of signage compatible with current City regulations.

(B) Signs which are nonconforming in the following respects shall not be permitted and shall be brought into conformity immediately, or upon annexation, notwithstanding any other provision of this Section.

(1) Any rotating, flashing or animated sign.

(2) Any sign which was erected in violation of the requirements of applicable federal, state, County or City regulations in effect at the time of erection.

(3) Any sign which creates a hazard to pedestrians or vehicular traffic by creating sight barriers, by having a color or format which resembles or conflicts with traffic control devices, or otherwise.

(4) Any sign which is not maintained in reasonably good repair or which creates a safety hazard to persons or property.

(5) Any sign which creates a public or private nuisance.

(C) Signs which where lawfully nonconforming on February 1, 1984, or upon annexation subsequent thereto may be used and maintained only substantially as such sign existed on February 1, 1984, or the date of annexation. No material change or alteration may be made which increases the nonconformity, or which alters the size or the message of the sign; provided, however, ordinary maintenance of the sign is permitted.

(D) The right provided herein to maintain a nonconforming sign shall be terminated and the sign removed or brought into compliance with these regulations along with any other signs related to the same business under the following conditions:

(1) Abandonment of the sign, abandonment or termination of the related business, or an interruption in continuance of the related business for a period of 90 days.

(2) A change in the name of the business or change in the sign message.

(3) A violation of any provision of this Chapter by the owner or party in lawful possession of the sign. The destruction of the sign, or damage to the sign such that the cost of repair is greater than 50 percent of the replacement cost of the sign.

(E) Existing signs on nonconforming uses may be permitted to continue for as long as the nonconforming use exists, but may not be extended or altered in any way.

Sec. 11-10-4. Sign permits.

(A) *Sign Permit Required.* Except as provided in this Section, all signs shall require a sign permit, on forms acceptable to the City, issued by the City Manager following the same procedure as a building permit, and with administrative fees as set forth in the City Regulation Manual. The burden shall be upon the applicant for a sign permit to prove compliance with applicable provisions of the City's outdoor lighting regulations. (Chapter 9 of this Title)

(B) *Exempt Signs.* The following signs are exempt from obtaining a sign permit:

(1) *Temporary Signs.* Each business may have one temporary sign or banner at a time, in all nonresidential zoning districts without a permit so long as the sign or banner is no larger than 64 square feet in area, complies with applicable height limitations, is maintained in good repair, and does not interfere with the reasonable use of adjoining property, or create a nuisance. The area of such a temporary sign shall not be included in the maximum sign area subject to a permit.

(2) Official traffic control devices.

(3) Signs and notices erected, owned and maintained by the City of Montrose.

(4) Signs within outdoor athletic venues, such as ballparks, golf courses, football fields, and soccer fields which are directed to spectators and participants in a manner to minimize visual impact outside of the venue.

(5) Window signs.

(6) *Portable Signs*.

(a) One portable sign per business or use may be erected without a City sign permit in all commercial zones, not to exceed 16 square feet in sign area and four feet in height, in addition to the maximum sign area permitted as indicated in Section11-10-6. The permittee shall be required to obtain additional permits from other agencies, if required by law. Such signage shall not create a nuisance; nuisances created by such signs may be abated in accordance with the City's nuisance laws.

(b) In the "B-1" zone only, a business may place one portable sign directly in front of, or directly beside their business premises, so long as the sign does not create a traffic or other safety hazard, or unreasonably impede pedestrian traffic on the sidewalk, and conforms substantially to the design guidelines developed by the applicable retail merchants' association or downtown merchants' association for such signs, if any; responsibility for enforcement of said retail merchants' design guidelines shall not be upon the City.

(7) Dispenser type displays such as soft drink machines, gasoline pumps, tire displays and ice machines, with information printed by the manufacturer on the dispenser, provided the City determines they are not detrimental to the general appearance and character of the area.

(C) This Chapter is not intended to control or limit appropriate seasonal decorations which do not constitute a public nuisance or hazard.

(D) *Revocable Encroachment Permit Required.* Signs may be placed on City property by other parties only if authorized by the City or specifically allowed by City ordinances or regulations, a revocable encroachment permit, easement, or other specific authorization. The City may issue a revocable encroachment permit to the owner of abutting premises on street rights-of-way with at least a 100-foot right-of-way width, on terms appropriate to protect the City's interests, when the area encroached is not currently needed for vehicular or pedestrian traffic, so long as no nuisance or safety hazard will be created. Signs placed on City property without authorization are subject to removal and disposal by the City.

(E) *Special Event Sign Permit Required.* Festivals, fairs, markets, commercial or noncommercial sales, and public events shall obtain a Special Event sign permit for all signage, and shall be exempt from the temporary sign limitations of this Section, provided said festival, fair, market, commercial or noncommercial sale or event is open for public use no more than 96 consecutive hours, or four calendar days, including those times when the festival, fair, market, commercial or noncommercial sale or event is not in actual operation. The sign face area of Special Event signs shall not be included in the maximum sign area subject to a sign permit. All signage related to the festival, fair, market commercial or noncommercial sale or event shall be promptly removed at the conclusion thereof. Festivals,

fairs, markets, commercial or noncommercial sales, and public events may obtain Special Event sign permits up to 12 times per calendar year; said permits may run consecutively. Balloons, streamers, flags and pennants may be allowed up to the maximum height of a freestanding sign allowed in the zone in which the event is located. All balloons of any shape must fit within a three-foot cube (three feet high by three feet deep by three feet wide). Human-held and human-powered signs, and live, costumed advertisers or performers shall also be allowed; all other animated signs not listed specifically in this Subsection shall be prohibited. All signage subject to a Special Event sign permit shall be on-premises. The permit may contain conditions as appropriate to protect the reasonable use of adjoining property, and the public.

Sec. 11-10-5. Coordinated sign plan.

The coordinated Sign Plan Regulations as enacted by Ordinance No. 2155 shall continue in full force and effect solely as to properties which have recorded a Coordinated Sign Plan Declaration of Covenants. The Declarant, his heirs, successors and assigns may, at any time, elect to record a document revoking said Declaration of Covenants, making the property encumbered thereby subject to the current version of this Chapter.

Sec. 11-10-6. Sign standards by zoning district.

The provisions in Table 10.1 apply with respect to the zones and uses indicated.

Table 10.1

Sign Standards by Zoning District

Zoning District	Maximum Number of Signs	Maximum Square Footage of Signs Per Lot-All Signs Combined	Maximum Height of a Freestanding Sign	Maximum Size of a Freestanding Sign*
B-1	Two Primary, One Secondary**	The lesser of 1.5 sq. ft. per linear foot of principal street frontage or 200 sq. ft.	20 feet	Single-tenant: 96 sq. ft.; Multi-tenant: 144 sq. ft.
B-4	Two Primary, One Secondary**	The lesser of 1½ sq. ft. per linear foot of principal street frontage or 200 sq. ft.	10 feet	Single-tenant: 96 sq. ft., Multi-tenant: 144 sq. ft.
B-2, B-2A, B-3	Two Primary, One Secondary**	The lesser of one and a half sq. ft. per linear foot of principal street frontage or 300 sq. ft.	25 feet	Single-tenant: 96 sq. ft., Multi-tenant: 144 sq. ft.

Lots with two or more separate businesses in the B-2, B-2A, B-3, I-1, and I-2 zones	One Freestanding, One Primary wall sign for each business frontage on a street or parking lot	1½ sq. ft. per linear foot of principal street frontage (no maximum sq. ft.). Building wall signs are limited to one and a half sq. ft. per linear foot of business frontage.	25 feet	144 sq. ft.
I-1, I-2	One Primary	The lesser of one and a half sq. ft. per linear foot of principal street frontage or 200 sq. ft.	10 feet	Single-tenant: 96 sq. ft., Multi-tenant: 144 sq. ft.
OR	One Primary, One Secondary	Buildings 2,000 sq. ft. or less: six sq. ft. Buildings over 2,000 sq. ft.: 32 sq. ft. Secondary sign: six sq. ft.	6 feet	Buildings 2,000 sq. ft. or less: four sq. ft., Buildings over 2,000 sq. ft.: 32 sq. ft.
RL, R-1, R-1A, R-1B, R-2, R-3, R-3A, R-4, R-5, R-6	One Primary, One Secondary***	Buildings 3,000 sq. ft. or less: six sq. ft. Buildings more than 3,000 sq. ft.: 32 sq. ft.	6 feet	Buildings 3,000 sq. ft. or less: six sq. ft. Buildings over 3,000 sq. ft.: 32 sq. ft.
MHR	One Primary, One Secondary***	12 sq. ft.	4 feet	6 sq. ft.

Other Signs by Zone District	**Number**	**Sign Size**	**Maximum Height of a Freestanding Sign**	**Permit Required**
Electronic Reader Boards (B-2, B2-A and B-3 Only)		May be no larger than 48 sq. ft.	25 feet	Yes
Temporary Signs and Banners (Nonresidential zoning only)	One Temporary, Sign or Banner	64 sq. ft.	25 feet	No
Portable Sign (Commercial Zones only)	One sign per business or use	16 sq. ft.		No
Development Entrance Sign (All Zones)	Two	80 sq. ft.	10 feet	Yes
Secondary Sign (Nonresidential Zones only)	One			Yes

* Freestanding sign square footage shall be included in the maximum square footage of signage per lot.
** Secondary signs in commercial zones are limited to 32 sq. ft.
***Secondary signs in residential zones are allowed only for buildings over 3,000 sq. ft., and are limited to 6 sq. ft.

Sec. 11-10-7. Supplemental sign standards.

(A) *Maximum Sign Area*. The maximum sign area permitted per business or function present upon a single lot or parcel shall be as specified in the table contained in the tabulated provisions of Section 11-10-6.

Where the maximum sign area is based upon a computation determined by the linear feet of principal street frontage, the allowed maximum shall be applied to the entire lot or parcel, regardless of the number of businesses or functions thereon.

(B) *Sign Clearance.* A projecting sign shall be a minimum height of nine feet above ground level. A projecting sign shall not extend more than five feet over the public right-of-way, and it shall not be higher than the roofline of the building at the point where it is attached. A revocable encroachment permit, as set forth in Section 11-10-4 (D), shall be required for signs projecting over City-owned rights-of-way. Other agencies may have requirements in addition to those set forth herein.

(C) *Sight Triangle Provisions*.

a. For traffic safety reasons, whenever practicable, a 15-foot minimum setback shall apply to all freestanding signs in all zoning districts except "B-1."

b. The City's sight triangle requirements shall apply to temporary signs, and all signs used pursuant to a Special Event sign permit.

(D) *Development Entrance Signs*. Developments, including subdivisions, planned developments, multifamily dwelling complexes, mobile home parks, and industrial parks, may have up to two freestanding monument entrance signs. Such freestanding monument entrance signs are not allowed upon any City property, including public rights-of-way, unless a revocable encroachment permit is approved.

(E) *Electronic Reader Boards.*

(1) Electronic reader boards, and any portion of the sign face thereof may be changed no more frequently than once every eight seconds.

(2) Use of electronic reader boards shall be limited to the "B2," "B2-A" and "B3" zoning districts, and said signs shall be no larger than 48 square feet.

(3) The City may inspect the settings for electronic reader boards at any time during business hours for the business operating the sign, to determine compliance with these provisions.

(F) *Freestanding Signs.* The permanent sign base of a freestanding sign shall have an aggregate width of at least 40 percent of the width of the sign cabinet or face. All supporting structures of a freestanding sign shall match the primary finish and colors of the associated building.

(1) One freestanding sign shall be permitted per multitenant lot or parcel.

(2) One hundred fifty square feet of landscaping shall be required around the base of any freestanding sign located within 50 feet of a public right-of-way.

(3) Permanent freestanding signs 12 feet or lower in total height shall be exempt from the 40 percent base width requirements set forth in this Subsection, provided that the sign shall have a sign face area not to exceed 40 square feet per sign face.

(G) *Vehicle-Mounted Signs.* All vehicle-mounted signs shall be permanently affixed, painted, magnetically applied or otherwise mounted upon a vehicle and shall not project more than 18 inches above the surface to which they are attached; and any sign which is mounted upon the roof, hood or trunk of a vehicle and which projects above such surface upon which it is mounted shall not exceed two square feet in area per face. Banners displayed on vehicles shall be subject to the provisions contained in Section 11-10-4 (E).

(H) *Wall Signs.* If a business has more than one frontage on streets and alleys, it may have one additional wall sign not to exceed 32 square feet.

(I) *Window Signs.* Window signs not exceeding 2 square feet are permitted in residential zones.

(J) *Prohibited Signs*. No rotating, flashing, roof, or animated signs or signs containing a moving message shall be permitted. This does not prohibit scrolling signs in windows or electronic reader boards.

CHAPTER 11-11. SUPPLEMENTARY USES

Sec. 11-11-1. Bed and Breakfast.

A Bed and Breakfast may be allowed as a permitted use in the R-4 and OR zone districts, and as a conditional use in the R-3 and R-6 zone districts, provided that the following criteria are met:

(1) A Bed and Breakfast shall be operated solely by the residents of a lot of at least 6,250 square feet, and provide no more than two bedrooms for rent. The only meal provided on the premises shall be breakfast to the renters.

(2) A Bed and Breakfast in the R-4 zone district shall have at least 3,125 square feet per rental bedroom.

(3) Exterior advertising for a Bed and Breakfast shall comply with Chapter 10 Signs of this Title.

(4) All parking for the Bed and Breakfast shall be in accordance with Section 11-8-3 of this Title.

Sec. 11-11-2. Group homes.

(A) *Number of Persons Permitted.*

(1) A group home with no more than eight (8) handicapped or disabled residents, as defined in Section 11-15-10 of this Title, is a permitted use in the zone districts as indicated in Section 11-7-6 of this Title. Additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons are allowed.

(2) Group homes with more than eight (8) handicapped or disabled residents shall be reviewed as a conditional use in the zone districts as indicated in Section 11-7-6 of this Title and processed as an application for a reasonable accommodation under the requirements and standards of the Fair Housing Amendments Act (FHAA), specifically, 42 U.S.C. 3604(f)(3)(B).

(3) A group home shall not include any person required to register as a sex offender pursuant to C.R.S. § 18–3–412.5, as amended, unless related to other persons in the group home by blood, marriage or adoption or in foster care.

(4) Other group homes, e.g., for children and group homes for elderly persons (who are not also handicapped or disabled persons), shall be reviewed as a conditional use in the zone districts as indicated in Section 11-7-6 of this Title.

(B) *Compliance with State and Local Requirements.*

(1) The group home shall maintain compliance with applicable building codes, fire codes, and health codes based upon the occupancy classification and number of residents and necessary persons for care of the residents.

(2) The group home shall comply with the parking standards of this title. All commercial components, such as parking lots and playgrounds, shall be screened and buffered from neighboring residences and uses.

(3) Copies of any applicable current state or local certifications, licenses or permits for the group home shall be maintained on the premises.

(C) *Compliance with Federal Requirements.* A group home for handicapped or disabled persons shall quarterly, and otherwise upon request by the City Manager, provide evidence and/or demonstrate that the residents in the group home are handicapped or disabled individuals and entitled to protection under the FHAA, Americans with Disabilities Act (ADA), or the federal Rehabilitation Act.

(D) *Meetings and Gatherings.* Meetings or gatherings on-site at a group home for handicapped or disabled persons that are consistent with a normal residential family setting are allowed and shall only be for residents, family of residents, and necessary persons required for the support, care and supervision of the handicapped or disabled persons. This does not permit conducting ministerial activities of any private or public organization or agency or permit types of treatment activities or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in the particular zoning district. See, C.R.S. § 31-23-303(2) (c).

Sec. 11-11-3. Home occupations.

Home occupations may be conducted within a dwelling unit in any district as an accessory use only if the following criteria are met:

(1) An application must be submitted with a fee as set forth in Section 3-1 of the City of Montrose Regulations Manual. Additionally, City and state sales tax licenses must be obtained if sales taxable by the City or state sales taxes are to be made.

(2) The occupational activity and storage of any items used or sold in the occupation must be entirely within the dwelling unit. Neither the occupational activity nor any storage may be conducted within or utilize any garage, detached buildings, or other place upon the premises other than the residence itself.

(3) Only the residents of the dwelling unit may be engaged in the home occupation.

(4) No unreasonable noise, glare, smoke, dust, vibration or odor shall be observable off of the premises.

(5) The home occupation activity shall not utilize or occupy more than 20 percent of the floor area of the dwelling unit.

(6) Off-street parking shall be required for both the residential and the commercial activity in accordance with the requirements of Section 11-8-3 of this Title.

Sec. 11-11-4. Industrial performance.

Manufacturing operations or industrial uses, when permitted in a zone district, are subject to the following limitations:

(1) No structure associated with a manufacturing operation or industrial use shall be constructed within 100 feet of an existing residential zone.

(2) Manufacturing and storage associated with manufacturing in the B-2 and B-3 zone districts shall be indoors.

(3) No manufacturing operation or industrial use may create a nuisance to other property by emitting any obnoxious or dangerous degree of heat, glare, radiation, fumes, dust, odor, noise, light, smoke, vibration or other adverse effects which cannot be effectively confined on the premises.

(4) All applicable environmental standards of the state of Colorado or the United States government shall be complied with at all times.

(5) No materials or wastes shall be deposited upon a subject lot in such form or manner that they may be transferred off the lot by natural causes or forces.

CHAPTER 11-12. ADULT BUSINESSES

Sec. 11-12-1. Location.

(A) It shall be unlawful to operate or cause to be operated a sexually oriented business outside of the "I-2" General Industrial District.

(B) A sexually oriented business shall not locate within the "I-2" General Industrial District within 1,000 feet of:

(1) Any church;

(2) Any public or private school;

(3) Any residentially zoned property as the same is established by this Title;

(4) A public park;

(5) A licensed childcare facility or established day care business;

(6) Any property, public or private, used for and equipped with facilities for recreation, especially by children. A playground may be incidental to school use, but is not limited to, school use or school facilities as defined herein;

(7) Any building owned, leased or held by the United States of America, the State of Colorado, Montrose County, or the City of Montrose, any school district or other agency or political subdivision, which building is used for governmental purposes.

(C) It shall be unlawful to operate or cause to be operated a sexually oriented business within the "I-2" General Industrial District on any property within 500 feet of a Highway Corridor as that term is set forth in Section 11-8-8 (A) of this Title.

(D) It shall be unlawful to operate or to permit the operation, establishment, or maintenance of a sexually oriented business within 100 feet of any other sexually oriented business.

Sec. 11-12-2. Distance measurement.

(A) The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business, or in the case of a sexually oriented business operating within a condominium estate or leasehold estate, from the closest airspace boundary of such condominium estate or from the closest wall of such leasehold estate.

(B) The distance between any sexually oriented business and any church, school, dwelling, public park, childcare facility playground, Highway Corridor or public building, as set forth above, shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business to the nearest property line of the premises of a church, school, dwelling, public park, childcare facility playground, Highway Corridor or public building, as set forth above. If the premises where the sexually oriented business is conducted is comprised of a condominium estate or leasehold estate, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest airspace boundary of the condominium

estate or the nearest wall of the leasehold estate used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a church, school, dwelling, public park, childcare facility playground, Highway Corridor or public building, as set forth above.

Sec. 11-12-3. Additional regulations.

(A) All exterior windows in a sexually oriented business shall be opaque to such an extent that interior objects viewed from outside shall be so obscure as to be unidentifiable. Exterior windows in sexually oriented businesses shall not be used for any display or sign except for a sign that complies with the requirements of this Section.

(B) All doors for ingress and egress to a sexually oriented business, except emergency exits used only for emergency purposes, shall be located on the front of the sexually oriented business. For the purposes of this Subsection, the front of a sexually oriented business shall be deemed to be that facade of the building that faces the front lot line of the lot or parcel on which the business is located. Every sexually oriented business shall have a foyer at every point of ingress or egress, except for emergency exits. In the case of a sexually oriented business having more than one front lot line, the sexually oriented business shall be oriented such that the front of the business faces away from the nearest of any of the land uses listed in Section 11-12-1(B).

(C) The interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five footcandles as measured at the floor level. It shall be the duty of the operator, manager and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

(D) Any adult cabaret or adult theater shall have one or more separate areas designated as a stage. Entertainers shall perform only upon a stage. The stage shall be fixed and immovable and located inside the building in which the adult use operates. No seating for the audience shall be permitted within three feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet of the edge of the stage.

Sec. 11-12-4. Conduct.

(A) No owner, operator, manager or employee mingling directly with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity.

(B) No owner, operator, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

(C) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in Subsections (D) and (E) of this Section.

(D) An owner, operator, manager or employee who desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(E) A sexually oriented business that provides tip boxes for its patrons as provided in this Section shall post one or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows:

"All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited."

Sec. 11-12-5. Hours of operation.

It shall be unlawful for a sexually oriented business to be open for business, or for the owner, operator, manager or any employee of a sexually oriented business to allow patrons upon the premises during the following time periods:

(1) On any Monday through Friday, other than January 1, from 12:00 midnight until 8:00 a.m.;

(2) On any Saturday and Sunday from 2:00 a.m. until 8:00 a.m.

Sec. 11-12-6. Minimum age.

(A) Except for such employees as may be permitted by law, it shall be unlawful for any person under the age of 21 years to be upon the premises of a sexually oriented business.

(B) It shall be unlawful for the owner, operator, manager or any employee of the licensee to allow anyone under the age of 21 years, except for such employees or delivery persons as may be permitted by law, to be upon the premises of a sexually oriented business.

Sec. 11-12-7. Signs.

In addition to complying with all other sign regulations of this Title, a sexually oriented business shall display a sign, clearly visible and legible at the entrance to the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises is off limits to minors or those under the age of 21 years, as the case may be. No sign for a sexually oriented business shall contain flashing lights, words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities.

Sec. 11-12-8. Unlawful acts.

It shall be unlawful for an owner, operator, manager or employee of a sexually oriented business to violate any of the requirements of this Chapter, or knowingly to permit any patron to violate the requirements of this Chapter.

Sec. 11-12-9. 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, whether such uses constitute establishments that allow the use of equipment or devices that qualify as slot machines subject to prohibition by the Division of Gaming as unlicensed and unlawful activity, and whether such uses are or should be prohibited by state law or concurrent local ordinance.

(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 September 21, 2021, constituting Adult Gaming Arcades, Slot Machine, Gambling Device and Simulated Gambling Device from the effective date of Emergency Ordinance 2560, September 21, 2021, for the period of seven hundred thirty (730) days to September 21, 2023 (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) *Repeal.* This section (11-12-9) is repealed, effective 12:01 a.m. September 22, 2023.

CHAPTER 11-13. MOBILE HOMES AND TRAVEL HOMES

Sec. 11-13-1. Use and location of mobile homes.

Mobile homes may be used, occupied or located only in the following places:

(1) Upon property lawfully used for a mobile home sales business, provided that such use or occupation thereof shall be restricted to the office usage associated with the mobile home sales business, and no residential occupation shall be allowed.

(2) Occupied as a dwelling within a mobile home park for which an occupancy permit has been issued or which park lawfully existed on the effective date of Ordinance No 1029, finally adopted on July 5, 1979.

(3) Occupied as a dwelling within a mobile home subdivision, or a zoning district, which allows mobile homes on individually-owned lots.

(4) At a location where a mobile home is lawfully located, occupied or used on the effective date of Ordinance No 1029, finally adopted on July 5, 1979, or date of annexation to the City, and continuously located, occupied or used thereafter; subject to the nonconforming use regulations in Section 11-7-11 of this Title.

Sec. 11-13-2. Mobile home permits.

It shall be unlawful to set up any mobile home on any space, lot or site until a siting permit has been obtained from the City. The fee for such permit shall be as set forth in Chapter 3-1 of the City of Montrose Regulations Manual.

Sec. 11-13-3. Mobile home requirements.

(A) Unless located within a mobile home park, a mobile home shall be either placed on a permanent foundation meeting City building code requirements or shall be set up as follows:

(1) The mobile home shall be set up so that there is a minimum 18 inches high area for access to the water and sewer connections measured from the bottom of the wood frame to the ground or pad.

(2) The support areas shall consist of a poured concrete or leveled gravel base.

(3) The mobile home shall be set upon supports along both sides no more than eight feet apart, center to center, or as per manufacturer's specifications. Each support shall consist of two four-inch by eight-inch by 16-inch concrete pad blocks, topped by additional concrete blocks placed with their long dimensions running perpendicular to the long dimensions of the pad blocks. Pad blocks are not required if the supports rest upon a concrete slab. The top of each support shall be capped by a two-inch by eight-inch by 16-inch wood block, and wedges shall be used to ensure a tight set up. Alternate supports may be approved pursuant to Section 106 of the Uniform Building Code.

(4) The sewer connection shall be grouted and sealed. All plumbing, electrical or gas connections and work shall meet applicable Code requirements.

(5) The site shall be graded to direct drainage away from the mobile home.

(6) That portion of the water supply line subject to flexing shall be copper or polybutylene. That portion subject to freezing shall be wrapped with heat tape or otherwise frost proofed.

(7) All applicable requirements of this Chapter, Code and other City ordinances and regulations shall be met.

(8) Fire resistant skirting meeting City standards shall be installed within 90 days of set up around the lower perimeter of the mobile home, between the ground and the mobile home.

(9) The mobile home must have over 500 square feet of floor space.

(B) No siting permit for use of a mobile home or manufactured housing as a residence shall be issued unless the following criteria are met:

(1) It bears a certification of HUD approval or UBC approval; or

(2) It meets or exceeds City building codes; or

(3) Mobile homes manufactured after June 15, 1976, comply with the requirements of the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC 1501 et seq.) and all rules and regulations promulgated thereunder; or

(4) Mobile homes manufactured prior to June 15, 1976, and subsequent to the effective date of the Colorado Housing Act of 1970 (C.R.S. § 24-32-701 et seq.), comply with the requirements of said Act and all rules and regulations promulgated thereunder; or

(5) Mobile homes manufactured prior to the effective date of the Colorado Housing Act of 1970 (C.R.S. § 24-32-701 et seq.) are certified by a registered professional engineer, or architect, to meet or exceed, on an equivalent engineering performance basis, the standards established pursuant to the Colorado Housing Act of 1970 or the National Mobile Home Construction Act of 1974; and

(6) The mobile home or other structure is in good condition, safe and fit for residential use, and the utility connections are set up are safe, conform to plumbing and electrical code requirements and pose no safety or fire hazard.

(C) Additions to manufactured housing must meet the requirements of City building codes. All such additions must have a foundation capable of supporting that addition without dependence upon the manufactured housing frame for support of any kind.

(D) It shall be unlawful to occupy any mobile home or manufactured housing until an occupancy permit is obtained following an inspection by the City to determine that it was installed in accordance with all applicable requirements.

(E) Any mobile home or manufactured housing which, on the effective date of Ordinance No 1029, finally adopted on July 5, 1979, or at the time of annexation, if annexed subsequent to that date, was lawfully existing and maintained in accordance with previously applicable state, county or City regulations and ordinances, but which does not conform or comply with all of the regulations provided for in this Section, may be continued to be maintained or used at its existing site, but shall not be enlarged, moved or replaced except in a

conformity with this Section; provided, however, mobile homes lawfully located within the City on the effective date of Ordinance No 1029, finally adopted on July 5, 1979, or the date of annexation subsequent thereto, which doesn't comply with Subsection (B) of this Section, may be moved and occupied at another site within the City subject to compliance with other applicable provisions of this Section, other City ordinances and regulations, and with applicable natural gas and electrical inspection and other requirements. If any such a mobile home is removed from the City, it may not be thereafter relocated within the City unless it also complies with Subsection (B) of this Section. Any mobile home or manufactured housing which was previously unlawful or illegal under previously applicable regulations shall remain unlawful or illegal and subject to abatement or other enforcement action.

Sec. 11-13-4. Mobile home park permits.

(A) It shall be unlawful to commence the construction of any mobile home park or the enlargement of an existing mobile home park until a mobile home park construction permit has been approved by the City Planning Commission and City Council as meeting the criteria and requirements of this Chapter and other applicable City and state regulations.

(B) Application for a mobile home park construction permit shall be made by submitting a site plan of the proposed mobile home park, accompanied by any supporting documents, plans or drawings as necessary to show that the design requirements of Section 11-13-5 will be complied with.

(C) The site plan and all supporting plans must be submitted to the City no later than 30 days before the date at which the Planning Commission is to review the application. Following review of the application, the Planning Commission shall approve or disapprove the application. If disapproved, the reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. If the application is approved, it shall be submitted to the City Council for review and action. The Council may approve the application, or disapprove the application if it finds that the requirements of these regulations have not been met.

(D) It shall be unlawful to locate any mobile home within any mobile home park prior to the time that an occupancy permit for the mobile home park, or applicable portion thereof, has been issued by the City Building Official following an inspection to determine if the mobile home park, or the applicable portion thereof, has been developed in substantial conformity with the site plan as approved by the City Council.

(E) An application fee as set forth in Section 3-1 of the City of Montrose Regulations Manual shall accompany the application for a mobile home park construction permit.

Sec. 11-13-5. Mobile home park design.

(A) *Size and Location.* Mobile home parks must meet the following criteria:

(1) They may be located only where allowed by Chapter 11-7 of this Title.

(2) The park must have a minimum size of five acres.

(3) The maximum size of the mobile home park shall be 20 acres except for mobile home parks in existence, or parks developed on property held in single undivided ownership and zoned "MHR," as of July 1, 1998.

(4) No part of any mobile home park may be located within 1,320 feet of any part of any other mobile home park located either within or without the City limits.

(B) *Minimum Compliance.* All mobile home parks shall, as a minimum, comply with the Regulations for Mobile Home Parks issued by the State of Colorado, and the requirements of this Chapter. In the event of any conflict between the state regulations and the requirements of this Chapter, or other ordinances and regulations of the City, those regulations which are more stringent shall apply.

(C) *Dimensional Requirements.* The following provisions shall apply to all mobile home parks constructed after the effective date of the ordinance from which this Chapter is derived.

(1) Each mobile home space shall be shown on the site plan and may have only one mobile home located on it.

(2) Each space shall be a minimum area of 6,250 square feet.

(3) Front set-backs shall be a minimum of 12 feet; the rear set-backs a minimum of ten feet; set-backs for the front and street side of a corner space shall be 12 feet; the side set-backs shall be a minimum of five feet; and either the front set-back or one of the side set-backs shall be a minimum of 20 feet.

(4) A minimum of two off-street parking spaces per space shall be provided.

(5) Accessory structures which are not attached to the mobile home are not subject to rear and side yard set-backs.

(D) *Improvements.* The mobile home park developer shall provide the following improvements:

(1) City water systems, including fire hydrants and fire mains.

(2) City sanitary sewer system.

(3) Paved streets with a minimum paved width of 40 feet, including the width of valley pans or sidewalks.

(4) Storm drainage system.

(5) Street signs, street lights.

(6) Concrete valley pans, three feet in width or curbs, gutters, or sidewalks, shall be installed on each side of each street.

(7) Landscaping of each space to include a minimum of 40 percent of the space in irrigated lawn, and the remainder of the area not occupied by improvements shall be landscaped in a reasonable fashion.

(8) A minimum of eight percent of the mobile home park must be developed as park and open space and located to provide a buffer to adjoining streets or property.

(E) *Public Utilities.* Arrangements to provide public utilities including, if available, gas, electricity, telephone and cable television shall be made with the utility companies.

(F) *Improvements; Submission and Approval.* Plans for all improvements shall be submitted with the site plan and shall be approved by the City Manager and City Engineer prior to the

approval of any permit by the City Council. All required improvements shall comply with standard City design and construction standards and specifications.

(G) *Easements.* The City may require reasonable utility easements to be dedicated to the public for the purpose of public and City utilities. The City may require the over sizing of any water and sewer lines, in which event the City shall pay for the cost of over-sizing.

(H) *Dependent Mobile Homes.* No dependent mobile home shall be allowed in any mobile home park unless the park provides sanitary facilities and a service building meeting the requirements contained in the state Mobile Home Park Regulations.

Sec. 11-13-6. Use and location of travel homes.

Travel homes may be occupied as temporary dwellings only in the following circumstances:

(1) Within a travel home park for which an occupancy permit has been issued or within a travel home park which lawfully existed at the effective date of the ordinance from which this Chapter is derived.

(2) Upon private property for temporary occupancy by out-of-town guests, for a period not to exceed 30 days in any year for any tract of property.

(3) Upon property for which a permit has been issued by the City pursuant to Section 11-13-7.

Sec. 11-13-7. Travel home permits.

(A) An application for a permit for the temporary location or use of a travel home upon private property shall be made upon forms supplied by the City and appropriate fees paid as set forth in Section 3-1 of the City of Montrose Regulations Manual.

(B) A permit (for a period of up to one year) may be issued under the following circumstances by the City Manager:

(1) For fire protection or security purposes in industrial districts.

(2) At a construction site during the construction period for nonresidential purposes.

(3) Travel homes may be used as a temporary residence, on property owned by the occupants, for which a building permit for a single-family residence has been issued, and water and sewer taps purchased which meet the following criteria:

(a) The permit shall be in effect only as long as actual construction of the permanent residence is being pursued with due diligence.

(b) The owners of all abutting property must approve the use in writing.

(c) The lot size of the premises upon which the travel home is located must have an area of at least twice the minimum lot size specified in City Zoning Regulations.

(d) The travel home must be properly connected to the water and sewer system and be subject to monthly water, sewer and trash collection charges.

(C) The Planning Commission may issue a permit for the temporary location of travel homes, irrespective of the proposed use, on private property only, under the following circumstances:

(1) Permits shall be issued only upon the Planning Commission's determination that the criteria set forth in Section 11-7-6 of this Title applicable to conditional uses have been met.

(a) The permit may be granted upon conditions or limitations which the Planning Commission determines are necessary in order to ensure that the applicable criteria are met.

(b) Notice of the hearing shall be provided in accordance with the requirements set forth in Section 11-4-3 of this Title for conditional use permit applications.

(c) An appeal de novo from the Planning Commission's decision may be had in accordance with Section 11-4-2 of this Title for conditional use permit applications.

(2) The Planning Commission shall determine the maximum permit period, but in no case shall the permit period exceed 12 months.

(a) No more than one permit for the same property may be issued in any 12-month period.

(b) Six months must elapse between successive permits applicable to the same property.

(3) These provisions are not intended to allow temporary commercial travel home parks. No payments shall be collected from the travel home occupants by the owner or operator of the permitted site.

(4) All travel home units shall be connected to a potable water and sanitary sewer system.

(a) The City shall determine the appropriate utility rate structure, when City utilities are utilized by the travel home units. Tap and system investment fees shall apply, when new taps are purchased. Unit charges may apply, at the City's sole discretion.

(b) Monthly water, sewer, and trash collection charges shall apply, when City utilities or services are utilized by the Travel Home units.

(c) Water, sewer, and other utility connections shall meet all applicable requirements of the utility providers.

(d) Backflow prevention devices shall be required in accordance with Chapter 3-8 of the Official Code of the City.

(5) Access points and access drives shall feature all-weather surfaces, and meet all applicable City and fire district requirements.

(6) Travel homes shall be set back a minimum of 25 feet from the nearest property line, regardless of the underlying zoning district.

(7) Fire hydrants may be required as set forth in the International Fire Code, as adopted by the City.

(8) All travel homes and utility facilities shall be promptly removed from the permitted site at the end of the permit period.

(9) All applicable federal, state and local regulations shall be met.

(D) The City shall not issue any temporary travel home location permit, except for a use or location which complies with the criteria of this Section. Such permit may be revoked by the City Council after a hearing upon reasonable notice to the applicant for a violation of any of the provisions of this Section, or any other applicable laws, ordinances or regulations of the City, state or federal governments.

Sec. 11-13-8. Travel home park permits.

(A) It shall be unlawful to commence construction of any travel home park until a travel home park construction permit has been approved by the City Planning Commission and City Council as meeting the criteria and requirements of this Chapter and other applicable City and state regulations.

(B) Application for a travel home park construction permit shall be made by submitting a site plan of the travel home park, accompanied by any supporting documents, plans or drawings as necessary to show that the design requirements of Section 11-13-9 have been complied with.

(C) The site plan and all supporting plans must be submitted to the City no later than 30 days before the date at which the Planning Commission is to review the application. Following review of the application, the Planning Commission shall approve or disapprove the application. If disapproved the reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. If the application is approved it shall be submitted to the City Council for review and action. The Council may approve the application, or disapprove the application, if it finds that the requirements of these regulations have not been met.

(D) It shall be unlawful to occupy any travel home within any travel home park prior to the time that an occupancy permit for the travel home park, or applicable portion thereof, has been issued by the City Manager following an inspection to determine if the travel home park, or the applicable portion thereof, has been developed in substantial conformity with the site plan as approved by the City Council.

(E) An application fee as set forth in Chapter 3-1 of the City of Montrose Regulations Manual shall accompany the application for a travel home park construction permit.

Sec. 11-13-9. Travel home park design.

(A) *Size and Location.* Travel home parks may be located only where allowed by Chapter 11-7 Zoning and shall be a minimum of two acres in area.

(B) All travel home parks shall, as a minimum, comply with applicable State of Colorado regulations for campgrounds and recreation areas, and the requirements of this Chapter. In

the event of any conflict between state regulations and the requirements of this Chapter, or other City ordinances or regulations, those regulations which are more stringent shall apply.

(C) *Dimensional Requirements.*

(1) All travel homes and any accessory structures shall be at least ten feet from any other travel home and accessory structure.

(2) The number of travel homes in the park shall not exceed 25 travel homes per acre.

(D) Eight percent of the gross area of the travel home park, or 2,500 square feet, whichever is greater, shall be developed and maintained as a park or playground.

(E) The travel home park developer shall provide the following improvements:

(1) A water system, including fire hydrants and fire mains.

(2) A sanitary sewer system.

(3) Paved streets with a minimum width as follow:

(a) One-way/no parking: 11 feet;

(b) One-way/parking on one side: 18 feet;

(c) Two-way/no parking: 24 feet;

(d) Two-way/parking on one side: 27 feet; and

(e) Two-way/parking on both sides: 34 feet.

(4) A storm drainage system.

(5) Street signs and security lights.

(6) A service building meeting the requirements of applicable state and City regulations.

(F) Plans for all improvements shall be submitted with a site development plan application in accordance with Section11-8-2 (B) of this Title. All required improvements shall comply with standard City design and construction standards and specifications.

(G) *Easements*. The City may require reasonable utility easements to be dedicated to the public for the purpose of public and City utilities. The City may require the over-sizing of water and sewer lines in which event the City shall pay the cost for over-sizing.

Sec. 11-13-10. Maintenance.

(A) All mobile home parks and travel home parks shall be maintained in accordance with the requirements of this Chapter, applicable state of State Department of Health regulations, and other applicable regulations of the City of Montrose, Colorado.

(B) The City building official, or his designated representative, shall have the right to enter upon any mobile home park or travel home park at any reasonable time for the purpose of inspecting the premises to determine compliance with this Chapter or other applicable ordinances and City and state regulations.

(C) The mobile home park owner and operator shall ensure that all landscaping and irrigated lawn is maintained in good and healthy condition.

CHAPTER 11-14. WIRELESS COMMUNICATIONS

Sec. 11-14-1. Purpose.

The purpose of this Chapter is to protect residential areas and lands by minimizing adverse impacts of antennas and towers; to encourage the location of antennas and towers in nonresidential zone districts; and to minimize the total number of antennas and towers in the community. In addition, these provisions are established to encourage the joint use of new and existing tower locations; to ensure that towers are located in areas that minimize adverse impacts; to ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design, appropriate site, landscape screening, and innovative camouflaging techniques. Further, these provisions are established to enhance the ability to provide telecommunications services to the community quickly, effectively, and efficiently; to protect public health and safety; to avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; to encourage the attachment of antennas to existing structures; and to facilitate the provision of telecommunications services throughout the City.

Sec. 11-14-2. Applicability.

These provisions shall apply to all towers, antennas, and telecommunication facilities, as defined, except any tower or antenna not more than 35 feet in height, and owned and operated by a federally-licensed amateur radio station operator or used exclusively as a receive-only facility. Further, high tension electric transmission or distribution line support towers used as mounts for antennas not more than 12 feet in height above the highest point of said tower shall be permitted in all zoned districts and are exempt from the separation requirements contained in this Chapter, but shall meet the specific requirements for telecommunications facilities/telecommunications support facilities for towers contained herein. Towers, antennas, and telecommunication facilities shall be regulated and permitted pursuant to the provisions of this Section and shall not be considered utilities. This Chapter aligns the review and approval process for these facilities with the FCC and any other agency of the federal government with the authority to regulate these facilities.

Sec. 11-14-3. Eligible telecommunication facility request.

(A) *Application.* Each application for a tower shall include all of the information listed on Appendix One for "Eligible Telecommunication Facility." Upon the request of the City or their designees, the telecommunications provider shall meet with and provide the requesting official information concerning the proposed system design, which information shall not be reduced to writing and shall be treated as a confidential trade secret.

(B) *Review Procedure.* The review procedure for all applications for locating or relocating towers and/or antennas shall be as provided in Sections 11-4-2 and 11-7-6 of this Title. Review must be completed within the federally-mandated deadlines provided in Section 11-14-4.

Sec. 11-14-4. Review deadlines.

(A) In compliance with federal law and regulations, the City shall review and act upon all applications within the following time periods:

(1) Within 30 days the City will give written notice of incompleteness, specifying the code section that requires the information. This halts the remaining deadlines until a complete application is filed.

(2) Within 60 days the City will act on applications that are not a "substantial change" (an Eligible Telecommunications Facilities Request).

(3) Within 90 days the City will act on collocation applications that are not a substantial change in the size of a tower, or location or collocation applications for a small cell facility or small cell network, or replacement or modification of the same.

(4) Within 150 days the City will act on applications for new facilities, collocation applications that are a substantial increase in the size of the tower or substantial increase an existing facility that are not a small cell facility or small cell network.

Sec. 11-14-5. Standards for towers.

(A) Towers are allowed only as conditional uses in all zones. The existence of another structure or use on the same zone lot shall not preclude the installation of a tower subject to the separation requirements contained hereinbelow. A request to locate a tower or telecommunication facility is subject to the provisions of this Chapter and may be granted only when the goals contained in Section 11-14-1 are met or the following conditions as will advance those goals:

(1) Moving the location of the tower to a more appropriate available site;

(2) Using a different technology that will lessen the impact of the tower;

(3) Requiring an appropriate alternative tower structure;

(4) Other actions designed to disguise or otherwise lessen the impact of the tower.

(B) To comply with the general requirements, towers shall:

(1) Comply with the provisions contained herein and the zone district regulations for permitted structures in the zone district in which it is located. The dimensions of the entire zone lot shall apply and not the dimensions of the leased parcel.

(2) Have a diameter of not more than 48 inches measured at the base of the tower.

(C) Any tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such tower shall remove the same within 90 days of the issue date of the notice to remove the tower or antenna.

(D) Towers shall meet all of the following criteria:

(1) Setbacks. The minimum zone district setback requirements shall apply to all towers.

(2) Height. The height and bulk of the tower shall be controlled by the district regulations of the zone district in which the tower is located, but in no case shall it exceed the following maximum height:

(a) Single users, not more than 75 feet in height.

(b) Two or more users, not more than 90 feet in height.

(3) *Color.* Towers shall be finished in a neutral color to reduce visual obtrusiveness, subject to any applicable standards of the FAA.

(4) *Support Facilities.* Support facilities associated with towers shall:

(a) Not contain more than 350 square feet of gross floor area or be more than 12 feet in height per user;

(b) Maintain the minimum setback and bulk plane requirements of the zone district in which it is located;

(c) Provide solid view-obscuring security fencing not less than six feet in height;

(d) Provide landscaping in accordance with the following requirements:

i. The tower compound shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base and compound from property used for residences. The standard buffer shall consist of a landscaped strip at least five feet wide outside the perimeter of the compound and shall provide for and maintain approved landscaping on the remainder of the zone lot;

ii. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived in accordance with variance procedures set forth in Section 11-7-13 of this Title.

iii. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Towers located on large, wooded lots, natural growth around the property perimeter may be considered a sufficient buffer.

(5) *Lighting.* Towers shall not be artificially illuminated unless required by the FAA or other government regulation. Ground level security lighting not more than 20 feet in height may be permitted if designed to minimize impacts on adjacent properties;

(6) *Separation Requirements.* The following separation requirements shall apply to all towers.

(a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 14.1 of this Chapter, except as otherwise provided in Table 14.1.

(b) Separation distances between towers shall be maintained and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower, pursuant to a site plan of the proposed tower. The minimum separation distances shall be as provided in Table 14.2 of this Chapter.

Table 14.1

Tower Separation Requirements from Certain Uses and Zones

Off-Site Use/Designated Area	Separation Distance
Single or two-unit dwellings and vacant platted or unplatted residential zoned property.	500 feet or 3 times the height, whichever is greater
Existing multifamily residential units	500 feet or the height of tower, whichever is greater
Parks	1,000 feet
Nonresidential zoned lands with nonresidential uses	None; only setbacks apply

Table 14.2

Minimum Separation Between Towers (in feet)

	Existing Towers, Types			
Proposed Tower, Types	Lattice	Guyed	Monopole 75 feet in height or greater	Monopole not more than 75 feet in height
Lattice	2,500	2,500	1,500	1,000
Guyed	2,500	2,500	1,500	1,000
Monopole 75 feet in height or greater	1,500	1,500	1,500	1,000
Monopole not more than 75 feet in height	1,000	1,000	1,000	1,000

Sec. 11-14-6. Standards for antennas.

(A) Antennas are allowed only as conditional uses in all zones. A request to locate an antenna or telecommunication facility is subject to the provisions of this Chapter and may be granted only when the goals contained in Section 11-14-1 are met or the following conditions as will advance those goals:

(1) Moving the location of the antenna to a more appropriate available site;

(2) Using a different technology that will lessen the impact of the antenna;

(B) Antennas which are not attached to a tower and their associated telecommunications support facilities:

(1) May be located on any nonresidential structure or multiple-unit dwelling structure, containing eight or more dwelling units, that is at least 35 feet in height.

(2) Are considered a permitted use and the existence of another structure or use on the same zone lot shall not preclude the installation of an antenna.

(C) Any antenna that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna shall remove the same within 90 days of the issue date of the notice to remove the antenna.

(D) Antennas installed on a structure other than a tower shall meet the following criteria:

Height and bulk plane. Height and bulk of the antenna shall be controlled by the district regulations of the zone district in which it is located, except that antennas shall not extend more than 12 feet beyond the highest point of the building or structure to which it is attached.

(E) *Support Facilities.* Telecommunications support facilities shall meet all of the following criteria:

(1) Telecommunications support facilities may be located on the roof of a building.

(2) The antenna and telecommunications support facilities shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure, subject to FAA regulations.

(3) The telecommunications support facilities shall not contain more than 350 square feet of gross floor area or be more than 12 feet in height per user.

(4) If the telecommunications support facilities are located at grade, they shall comply with all the same requirements as those for towers in the specific requirements contained in Section 11-14-5 (D) (4).

Sec. 11-14-7. Standards for small cell facilities and networks.

(A) *Applicable Requirements.* Small cell facilities and small cell networks shall comply in all respects with the requirements of this Chapter, with the exception of design requirements, and shall comply with applicable provisions of this Title, with the specific exception of setback requirements in Section 11-7-7 of this Title.

(B) *Location.* Small cell facilities are permitted in City rights-of-way, upon facilities in these rights-of-way and on public easements owned by the City under the following priority:

(1) First, on a City-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the City.

(2) Second, a City-owned utility pole with attachment of the small cell facilities in a configuration approved by the City.

(3) Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the City.

(4) Fourth, on a traffic signal pole or mast arm in a configuration approved by the City, or in the case of a CDOT facility, by CDOT.

(5) Fifth, on a freestanding or ground-mounted facility which meets stealth requirements in a location and configuration approved by the City.

(6) The proposed location and pole type shall be justified in permit application.

(C) *Height.* All small cell facilities shall not exceed two feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less.

(D) *Spacing and Placement.* No small cell facility shall be located within one thousand feet (1000 ft) of any other such facility. Small cell facilities shall be located on common property lines, as extended into the public right-of-way.

(E) *Design*. Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure).

(F) *Permitting*. Small cell facilities and networks shall make application for a permit for work in the right-of-way. Small cell facilities and networks shall make application for location on private property through the building permit process. The City may accept applications for a small cell network, provided each small cell facility shall be separately reviewed.

(G) *Indemnification*. The operator of a small cell facility which is permitted to locate on a city-owned utility pole, traffic signal or other structure owned by the city shall, as a condition of permit approval, indemnify the city from and against all liability and claims arising as a result of that attachment, including repair and replacement of damaged poles and equipment, in a form approved by the city attorney.

(H) *Bonding*. All permits for location of small cell facilities on real property not owned by the small cell permittee shall include as a condition of approval a bond, in form approved by the city attorney, to guarantee payment for any damages to the real property and removal of the facility upon its abandonment.

Sec. 11-14-8. Design and signage standards.

(A) *Design.* The design of antennas, and telecommunications support facilities shall use materials, colors, textures, screening, and landscaping that create compatibility with the natural setting and surrounding structures.

(B) *Mass.* The mass of antennas or an antenna on a tower shall not exceed 450 cubic feet per user, with no one dimension exceeding 14 feet per user. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array.

(C) *Signs.* Signs related to the tower/antenna shall be limited to those signs required for cautionary or advisory purposes only.

Sec. 11-14-9. Collocation.

Antennas may be attached to an existing tower, which is in compliance with all the requirements herein, as long as the height of the tower is not increased. The new antenna and any telecommunications support facilities must comply with all application regulations herein. A tower may be modified or constructed to accommodate the collocation of additional antennas under all of the following conditions:

(1) The tower shall be the same type as the existing tower, unless the tower is replaced by a monopole not more than 48 inches in diameter;

(2) An existing tower, to accommodate the collocation of an additional antenna, may be modified or rebuilt only once to a taller height, not to exceed 30 feet more than the towers existing height;

(3) The additional height referred to in Subsection (2) of this Section shall not require an additional distance separation as set forth in Table 14.2 of this Chapter. The tower's pre-modification height shall be used to calculate distance separations;

(4) The existing tower shall comply with the separations from certain uses and zones in Table 14.1 of this Chapter;

(5) If a tower is replaced to accommodate collocation, only one tower may remain on the zoned lot;

(6) If a tower is relocated on-site in compliance with all setback requirements, and within a 25 feet radius of its existing location, under the terms and conditions of this Section, it shall not be deemed a violation of the separation requirements of this Section.

Sec. 11-14-10. Public records.

The City may share information, except for the confidential proposed system design, with other applicants applying for approval or use exceptions or other organizations seeking to locate towers or antennas in the City, except that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

CHAPTER 11-15. DEFINITIONS

Sec. 11-15-1. Word usage.

(A) All provisions, terms, phrases, and expressions contained in this Title shall be construed according to the general purposes set forth in Section 11-1-4 of this Title and the specific purpose statements set forth throughout this Title. When, in a specific section of this Title, a different meaning is given for a term defined for general purposes in this Chapter, the specific section's meaning and application of the term shall control.

(B) Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Sec. 11-15-2. Definitions – Administrative.

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

Applicant means any person submitting paperwork for a development application.

Building means a shelter or enclosure constructed for persons, animals or chattels.

Chief building official means the officer or other designated authority charged with the administration and enforcement of the building code, or that person's authorized representative.

City means City.

City Council means the Council of the City.

City Manager means the City Manager of Montrose, Colorado or his or her designee.

Code means the Montrose Municipal Code.

Land development means any change in the use of land or improvements thereon, including, but not limited to:

(1) The construction, enlargement, reconstruction or renovation of any improvements which require a building permit.

(2) A change in use or intensity of use on the land, or within a structure.

(3) The placement of temporary structures on the land.

(4) Site clearance, removal or addition of vegetation, grading, dredging, mining, drilling, cut and fill activities, dumping soil or other materials, removal of soil or contouring of a site.

Notwithstanding the foregoing, the following shall not be deemed to constitute *land development*:

(1) Normal maintenance and repair of improvements which do not involve a change in use or intensity of use.

(2) Nonstructural interior improvements when they have no effect on the square footage of the existing improvements and are not associated with a change of use.

Owner means the person, corporation, government or other legal entity who owns or who has any legal or equitable interest in property and who is listed as owner on the records of the Montrose County Assessor's Office.

Sec. 11-15-3. Definitions – Adult business.

The following words, terms and phrases, when used in Chapter 11-12 of this Title, 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:

(1) 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

(2) 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:

(1) Persons who appear nude or in a state of nudity or seminudity; or

(2) 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, virtual currency, 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 any tabletop or standing electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, prize(s), 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, to include "fish game," "fish game table," "fish game gambling table" however denominated. 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; vintage slot machine models introduced on the market in 1984 as described in Chapter 11 of this Title; coin-operated music machines; or any bona fide amusement device authorized within restaurants by C.R.S. § 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 $25.00, 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 or an adult gaming arcade, 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:

(1) The opening or commencement of any such business as a new business;

(2) The conversion of an existing business into a sexually oriented business;

(3) The addition of a different sexually oriented business to any other existing sexually oriented business; or

(4) 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 or an adult gaming arcade to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Nudity or *state of nudity:*

(1) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

(2) 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 or an adult gaming arcade.

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 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:

(1) 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

(2) 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.

Prize means a gift, award, gratuity, good, service, credit, or anything else of value, including a thing of value for a "gain", that may be transferred to a customer, whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. "Prize" does not include: (I) Free or additional play; (II) Any intangible or virtual award that cannot be converted into money, goods, or services; or (III) A paper or electronic coupon, whether issued to a player as a single ticket or token or as multiple tickets or tokens, that is won in return for a single play of a device; has a value that does not exceed the equivalent of $25.00; cannot be exchanged or returned for money, monetary credits, or any financial consideration; and cannot be used to acquire or exchanged for any product that is, contains, or can be used as a constituent part of or accessory for: (A) Alcohol beverages; (B) Tobacco, tobacco products, marijuana, or smoking; or (C) Firearms or ammunition.

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.

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.

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.

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 C.R.S. § 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. "Simulated gambling device" does not include any pari-mutuel totalizator 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 C.R.S. tit. 44 art. 32.

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:

(1) 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

(2) 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:

(1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated;

(4) Human genitals in a state of sexual stimulation, arousal, or tumescence; or

(5) Excretory functions as part of or in connection with any of the activities set forth in Subsections (A) through (D) of this definition.

Sec. 11-15-4. Definitions – Floodplain Management.

The following words, terms and phrases, when used in Chapter 11-6 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

100-year flood means a flood having a recurrence interval that has a one percent chance of being equaled or exceeded during any given year (one percent annual chance flood). The terms "100-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term "100-year flood" does not imply that the flood will necessarily happen once every 100 years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term "500-year flood" does not imply that the flood will necessarily happen once every 500 years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 500-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood Elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal government. It is divided into 50 Titles that represent broad areas subject to federal regulation.

Conditional Letter of Map Revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 11-6-5 (H)of this Title, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during and after a flood.

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM database (usually spreadsheets containing data and analyses that accompany DFIRMs) means the FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map (DFIRM) means the FEMA digital floodplain map the digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated building means a non-basement building:

(1) Built, in the case of a building in FIRM Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of FIRM Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D.

The term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Federal Register means the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) Overflow of water from channels and reservoir spillways;

(2) The unusual and rapid accumulation or runoff of surface waters from any source; or

(3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means the official report provided by FEMA. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain or *floodprone area* means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain administrator means the City Manager, or designee, who shall administer and enforce the provisions of Chapter 11-6 of this Title.

Floodplain development permit means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within floodprone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and Chapter 11-6 of this Title.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations and ordinances.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, such as a floodplain ordinance, grading ordinance and erosion control ordinance, and other applications of police power. The term "floodplain management regulations" describes such state or local regulations, in any combination, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado

statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally dependent" includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means a structure that is:

(1) Listed by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or have been certified directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision (LOMR) means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the special flood hazard area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM), based on the placement of fill outside the existing regulatory floodway.

Levee means a manmade embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10, as amended.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating or recreation, or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Material Safety Data Sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

Mean sea level means for the purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of Ordinance No. 2290 , adopting this Chapter.

No-Rise Certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Physical Map Revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or erection of temporary forms; nor does it include installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the building's external dimensions.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the City; if an independent appraiser or the like is required, the property owner shall bear the cost thereof. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by officials having jurisdiction over such matters, and which are the minimum necessary conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Threshold Planning Quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the state that such facilities are subject to emergency planning requirements.

Variance means a grant of relief to a person from the requirements of Chapter 11-6 of this Title when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by Chapter 11-6 of this Title.

Violation means is the failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 11-15-5. Definitions – Historic preservation.

The following words, terms and phrases, when used in Chapter 11-3 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Alteration means any act or process that changes one or more of the exterior architectural or landscape features of a building, structure, site, object or district.

Certificate of Appropriateness means certificate issued by the commission authorizing any proposed repair, restoration, alteration, construction, relocation or demolition of a designated building, structure, site or object or element within a designated historic district pursuant to Chapter 11-3 of this Title.

Certificate of Economic Hardship means a certificate issued by the commission authorizing the repair, restoration, alteration, construction, relocation or demolition of a designated building, structure, object site or element within a designated historic district in accordance with the provisions of this Chapter, even though a Certificate of Appropriateness has previously been denied.

City's historic register means the register established pursuant to Section 11-3-3 of this Title.

Commission means the Historic Preservation Commission established pursuant to Section 11-3-2 of this Title.

Compatible or *compatibility* means consistent with, harmonious with and/or enhancing the mixture of complementary architectural styles either of an individual building, structure, object or site or of surrounding structures.

Construction or *construct* means the act of erecting an addition to an existing building, structure or object or the erection of a new principal or accessory building, structure or object on a lot or property.

Contributing property means a building, structure, site or object that reflects the historic or architectural character within a district.

Demolition or *demolish* means any act or process that destroys in part or in whole a building, structure or object.

Demolition by neglect means forsaking maintenance of any building, structure, object or site to allow severe deterioration, potentially beyond the point of repair.

Design guidelines means a standard of appropriate activity that will preserve the historic and architectural character of a building, structure, object, site or district.

District means as set forth in Section 11-3-4 of this Title.

Exterior architectural appearance means the architectural character and general composition of the exterior of a building, structure or object, including, but not limited to, the kind, color (excluding paint) and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Historic district means a defined area designated pursuant to this Chapter, which may contain within its geographic boundaries one or more contributing buildings, structures, objects or sites, and which may have within its boundaries other non-contributing buildings, structures, objects or sites.

Historic property means a building, structure, site or object which is designated by the City Council pursuant to this Chapter.

Infill means construction on vacant or underused parcels within existing areas that are largely developed.

Inventory means catalog of buildings, structures, objects and sites within the City, listed, eligible for listing or non-eligible for listing on the City's historic register.

Maintenance means all activities necessary to prolong the useful life and aesthetic appearance of a property.

National Register of Historic Places means the list of significant buildings, structures, sites or objects in American history, architecture, archaeology, engineering or culture maintained by the U.S. Secretary of the Interior.

Non-contributing property means a building, structure, object or site that does not reflect the historic or architectural character within a district because of age or lack of integrity.

Object means a material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Period of significance means span of time during which significant events and activities occurred.

Relocation means moving a building, structure or object to a different location, either temporarily or permanently.

Secretary means the secretary of the commission.

Secretary of the Interior's Standards for the Treatment of Historic Properties means the preservation, rehabilitation, restoration and reconstruction standards adopted by the U.S. Department of the Interior.

Site means location of a significant event, a prehistoric or historic occupation or activity, or a building, structure or object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing structure.

Structure means a construction for purposes other than shelter for humans, animals or chattel, such as a road, bridge, canal, or fence.

Sec. 11-15-6. Definitions– Outdoor lighting.

The following words, terms and phrases, when used in Chapter 11-9 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Bulb means the source of electric light. To be distinguished from the whole assembly. (See *Luminaire.*)

Candela means unit of luminous intensity.

Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting.

Fixture means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Flood light means light that produces up to 1,800 lumens and is designed to flood a well-defined area with light. Generally, flood lights produce from 1,000 to 1,800 lumens.

Flux means a unit that is erg/sec or watts.

Footcandle means illuminance produced on a surface one foot from a uniform point source of one candela. A unit of illuminance is equal to one lumen per square foot and is measured by a light meter.

Full cut-off fixtures means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Glare means intense light that results in discomfort and/or reduction of visual performance and visibility.

Holiday lighting means festoon type lights, limited to small individual bulbs on a string.

Illuminating Engineering Society of North America (IESNA) means the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

Light means the form of radiant energy acting on the retina of the eye to make sight possible: brightness, illumination, a lamp, etc.

Light pollution means any adverse effect of manmade light, including, but not limited to, light trespass, up-lighting, uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

Light trespass means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

Lighting means any or all parts of a luminaire that function to produce light.

Lumen means unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One footcandle is one lumen per square foot. One lux is one lumen per square meter.

Luminaire means a complete lighting system consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to a power supply.

Motion sensor device means a device that will sense motion electronically and switch on a security light necessary for public health, safety, and welfare for a brief duration.

Outdoor light fixture means outdoor, electrically-powered illuminating devices, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot and flood lights for:

(1) Buildings and structures;

(2) Recreational areas;

(3) Parking lot lighting;

(4) Billboard and other signs;

(5) Landscape lighting;

(6) Street lighting;

(7) Building overhangs and open canopies; and

(8) Product display area lighting.

Outdoor lighting means lighting that directly illuminates areas not completely enclosed by a structure.

Partially shielded means the bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

Recessed means when a light is built into a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of that structure.

Shielded means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

Up-lighting means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Sec. 11-15-7. Definitions – Signs.

The following words, terms and phrases, when used in Chapter 11-10 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Animated sign means any sign or part of a sign which changes, or appears to change, physical position by any movement or rotation, including search lights, streamers, balloons, inflatable signs and figures, and air- or wind-driven signs.

Bulletin board signs means a sign used for the purpose of notification to the public of an event or occurrence of public interest.

Canopy or hanging sign means a sign suspended from a permanent roofed structure. Canopy or hanging signs are allowed in all zones.

Dispenser type display means a facility whose primary purpose is to dispense goods and products, including gas pumps, beverage, candy or ice machines, wiper blades, motor oil displays or similar products.

Electric sign means any sign containing electrical wiring, including signs illuminated by an exterior light source.

Electronic reader board means any sign that displays text over a fixed background by digital or electronic means.

Electronic sign means any sign that contains a digital or electronic display that can be changed, similar to a computer or television screen.

Flashing sign means any electronic or illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color effects by any means whatsoever.

Free-standing sign means a non-movable sign which is entirely supported by one or more uprights, poles, braces, or a base in or upon the ground. Free-standing signs are allowed in all zones.

Off-premise sign means a sign advertising a business, person, activity, goods, products or services not located on the site where the sign is installed, or that directs persons to any location not on that site are not permitted.

Portable sign means signs designed to be physically moved and changed periodically to attract attention to a special circumstance, price or sale situation.

Primary sign means a sign related to or facing a public right-of-way.

Principal street frontage means the street or frontage with the highest functional classification under the most current version of the City's Comprehensive Plan.

Projecting sign means a sign (other than a wall sign) which projects from and is supported by a wall of a building. Projecting signs are allowed only within commercial zones.

Roof sign means a sign erected upon or constructed directly over any part of the roof or parapet of a building whether or not actually attached to the roof.

Secondary sign means a sign on a public right-of-way or alley in addition to the primary sign.

Sign means an object or device which is used for the primary purpose of conveying a message by means of letters, numbers, figures, symbols, colors or other similar medium.

Sign area means:

(1) The area of signs with regular geometric shapes shall be measured using standard mathematical formulas. Regular geometric shapes shall include, but not be limited to, squares, rectangles, triangles, parallelograms, circles, or combinations thereof.

(2) The area of signs with irregular shapes or of individual letter signs shall be the entire area within a single continuous perimeter of not more than eight straight lines enclosing the extreme limits of the sign.

(3) The total measured area of a sign shall include the area of all writing, representation, lines, emblems or figures contained within all modules, together with any air space, material or color, forming an integral part or background of the display if used to differentiate such sign from the backdrop or structure against which it is placed.

(4) On all signs other than projecting signs, the sign area shall be figured on one side only.

(5) The area of all freestanding signs shall include the area of the sign face as calculated in Subsections (1) through (4) of this definition, together with any portion of the sign structure which exceeds 75 percent of the area of the sign face. The intent of this Subsection is to encourage architectural decoration, ornamentation, or embellishment without deducting from the allowed sign area.

Temporary sign means any sign, banner, pennant, valance, or advertising display constructed of cloth, cardboard, wallboard, or other light materials, with or without frames.

Vehicle means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. The term "vehicle" includes any bicycle, but does not include any wheelchair, or any device moved by muscular power or moved exclusively over stationary rails or tracks or designed to move primarily through the air.

Vehicle-mounted signs means any sign affixed to or mounted upon any type of vehicle, as the term "vehicle" is defined herein.

Wall sign means any sign attached to or erected with the exposed face of the sign parallel to the wall of a building or structure. Wall signs are allowed in all zones.

Window sign means a temporary or permanent sign attached to the window of a building.

Sec. 11-15-8. Definitions – Subdivision.

The following words, terms and phrases, when used in Chapter 11-5 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Amended plat means an amended subdivision plat, or replat, which changes the number of separately described contiguous parcels of property or lots previously approved by the City, and meeting the requirements of Section 11-5-7 of this Title.

Building line means a line parallel to the property line beyond which no exposed portion of a building extends, other than the roof overhang.

Common interest community means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. The unit of ownership for any owner (except the association) within a common interest community is either a common interest community unit or a sublot. A common interest community is a condominium, planned community, or co-op.

Common interest community unit means a physical portion of the common interest community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the declaration. A common interest community unit may be comprised of only vertical boundaries or a combination of vertical and horizontal boundaries.

Condominium means a type of ownership which consists of a separate fee simple estate in an individual airspace unit of a multi-unit property, together with an undivided fee simple interest in common elements. This definition is further supported by the following terms:

(1) *Individual air space* means any enclosed room occupying all or part of a floor in a building of one (1) or more floors to be used for residential, professional, commercial or industrial purposes.

(2) *Common elements*, unless otherwise provided in the declaration or by written consent of all the condominium owners, means the land or the interest therein on which a building or buildings are located; the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of such building or buildings; the basements, yards, gardens, parking area and storage spaces; the premises for lodging of custodians or persons in charge of the property; installations of central services such as power, light, gas, water, heating, refrigeration, central air conditioning and incinerating; the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use; such community and commercial facilities as may be provided for in the declaration; and all other parts of the property necessary or convenient to its existence, maintenance or safety in common use.

(3) *Condominium unit* means an individual air space unit, together with the interest in the common elements appurtenant to such unit.

(4) *Declaration* means an instrument which defines the character, duration, rights, obligations and limitations of condominium ownership.

Co-Op means a common interest community in which the real property is owned by an association, each member of which is entitled by virtue of such member's ownership interest in the association to exclusive possession of a unit.

Estate subdivision (large) means a subdivision, or part thereof, with a minimum lot size of at least one-half of an acre, a gross area of at least ten acres or a minimum total area inclusive of

adjoining approved large or small estate subdivision with a minimum of one-sixth contiguity of at least 20 acres, and which is designated as a single-family residence district.

Estate subdivision (small) means a subdivision, or part thereof, with a minimum lot size of 14,500 square feet, a gross area of at least ten acres or a minimum total area inclusive of adjoining approved large or small estate subdivision with a minimum of one-sixth contiguity of at least 20 acres, and which is designated as a single-family residence district.

Land use staff means City staff members appointed by the City Manager for the purposes of review of land use matters, inclusive of the City Planner, the City Engineer and the City Attorney.

Letter of infrastructure completion and acceptance means a letter issued by the City Engineer pursuant to Chapter 11-5 of this Title accepting all public and necessary on- and off-site improvements. The issuance of this letter shall end the construction warranty period.

Letter of substantial completion means a letter issued by the City Engineer pursuant to Chapter 11-5 of this Title accepting all public and necessary on- and off-site improvements, except for landscaping and irrigation facilities. The landscaping and irrigation facilities may be secured with as set forth in Section 11-5-12 of this Title.

Lot width means the width of a lot measured at the building line.

Minor subdivision means a subdivision which meets the requirements of Section 11-5-3 of this Title.

Outlot means a lot or lots representing the remaining aggregate of unsubdivided land in those instances where large parcels of land are subject to existing uses or development, and may be subject to future subdivision as part of a phased development.

Person means any individual, firm, partnership, association, syndicate, corporation, trust or any other entity.

Preliminary Letter of Infrastructure Completion means a letter issued by the City Engineer pursuant to Chapter 11-5 of this Title when all public and necessary on- and off-site improvements have been inspected and determined to be complete. This letter initiates the construction warranty.

Planned community means a common interest community that is not a condominium or co-op and where the common elements are owned by an association. A condominium or co-op may be part of a planned community.

Sidewalk means improvements intended for pedestrian, bicycle and non-motorized traffic including sidewalks, trails, recreation paths, bike paths and similar facilities.

Stormwater drainage system means a system designed to carry off and minimize the effects of run-off water. It may consist of surface grading or subsurface piping or other components as required.

Subdivide means any act which is intended to or does result in the creation of a subdivision of land.

Subdivider means a person who subdivides.

Subdivision or *subdivided land* means a parcel of land which is divided into two or more parcels, lots, tracts or other interests including condominiums; townhouses, other common interest ownership properties; and any act creating such results. Provided, however, the following shall not be considered to be a subdivision for the purpose or application of these regulations:

(1) A division of land which creates cemetery lots;

(2) The creation of separate but undivided interests in a tract of land such as joint tenancy, tenancy in common, tenancy in entirety, trust, lien, mortgage, deed of trust or other security interest, unless such separate interests apply to less than all of the tract;

(3) An interest severing the oil, gas, minerals or water from the surface estate;

(4) Creation of a utility easement or an easement unrelated to the use of the surface; or

(5) Any division of property created by official acts of the City, including, but not limited to, partial acquisitions and conveyances of land, partial annexations of land, easements, and public rights-of-way.

Sublot means a physical portion of the common interest community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the declaration. The sublot may be comprised of only vertical boundaries or a combination of vertical and horizontal boundaries.

Transportation Plan means that portion of the City's Comprehensive Plan which establishes the location, character and size of streets or other public ways. The term "Transportation Plan" may also be referred to as "Street Plan" or "Thoroughfare Plan."

Warrant or *warranty* means the subdivider shall take such steps and incur such costs as may be needed so that all public and necessary on- and off-site improvements or any portion or phase thereof as repaired and/or replaced, shall comply with the subdivider's construction plans and/or site plan and City standards and specifications until the end of the warranty period.

Sec. 11-15-9. Definitions – Wireless communications.

The following words, terms and phrases, when used in Chapter 11-14 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Antenna means any exterior transmitting or receiving devices mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals, including, but not limited to, antenna used for personal wireless services as defined in 47 USC 332(c) (7).

Eligible telecommunications facilities request means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves the collocation of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

Substantial change means a modification which substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria, including a single change or a series of changes over time whether made by a single owner or operator or different owners/operators over time, when viewed against the initial approval for the support structure:

(1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

   (a) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act, effective February 22, 2012.

(2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(4) It entails any excavation or deployment outside the current site;

(5) It would defeat the concealment elements of the eligible support structure; or

(6) It does not comply with conditions associated with the original siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 6 of this definition.

Telecommunications facilities means the plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, promote, or offer telecommunications services.

Tower means any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers.

The term "tower" includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. The term "tower" also includes any antenna or antenna array attached to the tower structure.

Tower height means, when referring to a tower or alternative tower structure, the distance measured from the lowest point within ten feet of the structure to the highest point on the tower or other alternative tower structure, including the base pad and any antenna.

Sec. 11-15-10. Definitions – Zoning.

The following words, terms and phrases, when used in Chapter 11-7 and 11-13 of this Title, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Accessory building or structure means a building or structure on the same lot with the building or structure housing the principal use, but housing a use customarily incidental and subordinate to the principal use.

Accessory use means a use which is subordinate to, clearly incidental to, customarily in connection with, and ordinarily located on the same premises as the permitted use. *Assisted Living Facility* means a residential structure licensed by the State of Colorado to provide health-related and personal care.

Average yearly high water mark means the point on the bank, edge or channel at which the Uncompahgre River's waters reach their maximum average height on an annual basis; sometimes referred to as "HWM" herein. The average HWM shall be calculated based upon the depth of the Uncompahgre River at a cross section on the subject property, using a yearly peak flow rate of 2,000 cubic feet per second.

Barrier(s) to employment and housing stability means social, economic or health conditions, including mental illness, chemical dependency, or other disabling chronic health conditions which prevent or diminish a person's ability to obtain and remain in safe and permanent housing.

Bed and Breakfast means a business providing rooms and use of bath facilities on a nightly (short term rental) basis, for compensation, which business is incidental to the use of the premises for residential purposes.

Building line means a line parallel to a property line beyond which no exposed portion of a building other than its eaves extends.

Childcare facility means any facility not in a residence and excluding schools which provides less than 24-hour care and supervision for minor children, in accordance with the Statutes of the State of Colorado.

Conditional use means a use which is permitted only after review and approval pursuant to Sections 11-4-2 and 11-7-6 (B) of this Title.

Density means the number of dwelling units per gross acre of a development parcel.

Disturbance envelope means the area or areas which will be directly affected by a proposed development located within the Uncompahgre River Buffer Zone.

Duplex means a single residential building with two dwelling units.

Dwelling unit means an area in a building containing cooking, living and sanitary facilities designed for use and used by a single-family for residential purposes.

Family means one or more individuals occupying a single dwelling unit and living as a single housekeeping unit with a maximum of eight adults.

Family Child Care Home (FCCH) is a type of family care home that provides less than 24-hour care at any time for two or more children that are unrelated to each other or the provider, and are cared for in the provider's place of residence or as currently defined by the Statutes of the State of Colorado. A family child care home shall be considered an accessory use to a residence in all zone districts.

Fueling station means any building or lot having facilities for the sale of gasoline, diesel and other fuels for use by motor vehicles, and which may include incidental facilities for service and minor repair of motor vehicles.

Government buildings and facilities means any building or facility owned and operated by the United States of America, the State of Colorado, the City of Montrose, or any agency or political subdivision thereof.

Group home means a state-licensed home for eight (8) or fewer persons that is for purposes other than those defined as a *Group home for the handicapped or disabled.*

Group home for the handicapped or disabled means a state-licensed home for eight (8) or fewer persons with mental or physical impairments which substantially limit one or more major life activities, and including such additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons. “Handicap” and “disability” have the same legal meaning. A person with a disability is any person who has a physical or mental impairment that substantially limits one of more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to, hearing, visual, and mobility impairments, alcoholism, drug addiction, mental illness, mental retardation, learning disability, head injury, chronic fatigue, HIV infection, AIDS, and AIDS Related Complex. The term “major life activity” may include seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning, speaking, or working. Group homes for handicapped or disabled persons, as they relate to recovering (not currently using) alcoholics and persons with drug addictions, may also be known as sober living arrangements.

Home occupation means any commercial activity, whether for profit or nonprofit, conducted within a dwelling unit. A home occupation includes remote telework employment.

Homeowner association means any entity whether a corporation, partnership, unincorporated association, or other entity existing for the purpose of maintaining commonly-owned facilities or enforcing private protective covenants whose members or shareholders are the property owners involved.

Hospital means an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

Large retail development means a retail project or establishment of more than 10,000 square feet of gross floor area.

Manufactured housing means single-family homes substantially or entirely manufactured in a factory which are moved on site in substantial component parts, are placed on a permanent or temporary foundation, are not self-propelled and which are manufactured, certified and labeled pursuant to 42 USC 5401 et seq. or certified by the Colorado Division of Housing pursuant to CRS 24-32-703¬ and affixed with a certification label (also known as a HUD tag) on the outside of the home.

Mobile home means a moveable residential dwelling unit constructed prior to 1976 which is designed to be transportable after fabrication on its own wheels, attached wheels, or lowboy, suitable for year-round occupancy and containing a toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, plumbing and electrical connections provided for attachment to external systems. A mobile home is designed for long-term residential occupancy; a travel home as defined below shall not be considered a mobile home, as defined herein.

Mobile home, dependent, means a mobile home without toilet, lavatory or bathing facilities.

Mobile home park means any single or contiguous lots, tracts, or premises upon which is located two or more mobile homes intended for use or used as residences typically, but not necessarily, held and operated under undivided ownership with rental of spaces or units.

Modular housing means single-family, duplex or multi-family housing substantially or entirely manufactured in a factory which are moved on site in substantial component parts, are placed on a permanent foundation, are not self-propelled and which meet or exceed, on an equivalent engineering basis, standards established by the City's building code. The homes will bear an insignia labeled as "Factory Built Unit Certification" which are typically found under the kitchen sink.

Modular structure means a nonresidential building substantially or entirely manufactured in a factory which is moved on site in substantial component parts, placed on a permanent foundation, are not self-propelled and which meets or exceeds, on an equivalent engineering basis, standards established by the City's building code.

Multiple-family residence means any residence with three or more dwelling units in a single building.

Native vegetation means species of plants considered indigenous to the State of Colorado by government or reputable academic sources; species of plants that are not listed as "non-native" by agencies of the State of Colorado or the U.S. Bureau of Land Management.

Nonconforming use means a use which does not comply with the use regulations, dimensional requirements or other regulations of these Zoning Regulations.

Official Zoning Map means the adopted zoning map of the City showing zoning districts and boundaries.

On-site supportive services include, but are not limited to, health and dental care, behavioral health care, mental health services, substance abuse services, case management, life skills training, food access, assistance with transportation, child care assistance, and dependent care, when offered in connection with supportive housing.

Permitted use means a use which is permitted or allowed in the zone district involved, without review by the Planning Commission, and that complies with the provisions of this Title

and other applicable City ordinances and regulations. A permitted use is also known as a use-by-right.

Public utility service facilities mean transmission and distribution facilities for natural gas, and electricity necessary to provide service to customers located in the various districts of the City, such as pipes, lines, mains, wires, transformers, valves, and other related appurtenances, but not including buildings, offices, and production or generation facilities.

Recreational vehicle park means travel home and travel home park as defined in this Chapter.

Renewable energy facilities mean a wind or solar energy application for a residential dwelling and are considered an accessory use to a residence.

Setback means the required minimum distance between a property line and the closest projection of a building or structure, measured at a right angle to the property line. Where angled buildings, lots or curved streets exist, the setback may be taken as an average distance. Setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in this Title.

Short-term rental means short-term rental is a type of lodging wherein a dwelling unit, either in full or in part, is rented to a temporary occupant for monetary consideration for fewer than 30 consecutive days. A bed and breakfast is, for the purposes of this definition, a type of short-term rental. Likewise, a home used similar to a rooming/boarding or lodging house, but where stays are fewer than 30 consecutive days is also a short-term rental. Short-term rental does not include shelters or other transient lodging provided for no monetary consideration.

Skilled Nursing Facility means health care or residential facility licensed by the State of Colorado to provide continuous inpatient services.

Supportive housing means housing that is designed to provide ongoing and on-site supportive services to help individuals and families experiencing homelessness or at risk of homelessness, and which persons have barrier(s) to employment and housing stability. Occupancy of supportive housing shall be designed and operated for stays of 30 consecutive days or more and not on a nightly or emergency basis.

Temporary use means a use intended for a limited duration.

Townhome means three (3) or more dwelling units, each with its own outside entrance, which are joined by a common party wall and are on adjoining individual lots.

Travel home means vehicles and structures commonly used for temporary dwelling during travel or recreation activities, including, but not limited to, those registered or required to be registered and licensed as a vehicle, such as campers, motor homes, RVs, pick-up truck campers, trailers and trailer coaches.

Uncompahgre River means the river flowing through Montrose County, Colorado, shown on the United States Geological Survey, National Hydrologic Survey Map, in the area identified by Hydrologic Unit Code (basin) 14020006, and labeled thereon as the "Uncompahgre River;" also sometimes referred to herein as "the river."

Use means the activity or purpose for which property, a building or other structure is designed, arranged, intended, occupied or maintained.

CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: William Reis, Planner II
DATE: May 2, 2023
RE: The Bridges at Black Canyon Amended Preliminary Plat
ATTACHMENTS

- Exhibit A: Maps
- Exhibit B: Excerpt from City of Montrose Municipal Code

Planning Commission Consideration:
City Council is considering approval of The Bridges at Black Canyon Amended Preliminary Plat. City Council will consider all of the information in this memo in making a decision.

Applicant: Bridges of Montrose, LLC

Application Background:
The Bridges at Black Canyon Amended Preliminary Plat renews portions of the Bridges at Black Canyon Subdivision that have not yet been subdivided (designated as Outlots B and F of the 2014 The Bridges at Black Canyon Subdivision Filing No. 8 Final Plat). Previous preliminary plats have expired, and this project renews 26 single-family lots within The Bridges at Black Canyon PD, while meeting newer City standards and addressing stormwater detention. Engineering plans have been revised from the previous submittal to address stormwater and have been updated based on current conditions of the site. This subdivision is located within The Bridges at Black Canyon Planned Development, and does not amend the PD. This is located within the "R-2" Low Density District, and "R-3" Medium Density District.

The Planning Commission voted to approve The Bridges at Black Canyon Amended Preliminary Plat during the April 12, 2023 meeting. A Final Plat will also be required within five (5) years of approval of this Preliminary Plat (City of Montrose Municipal Code, Section 4-7-5(C) (1) (a).

Staff Analysis:

1. Subdivision Application Details & Review Standards:

The City of Montrose Municipal Code outlines the process and standards for Subdivision applications. The preliminary plat and proposed improvements shall comply with all requirements of the subdivision regulations and other applicable City design and construction specifications and standards. The Planning Commission should consider whether the project meets the standards outlined within Section 4-7-5 (A) (2) and summarized below: (See Exhibit B)

- The proposal shall be consistent with the Master Plan, City subdivision and zoning regulations, standards and other applicable ordinances and regulations and will be reviewed considering the following at a minimum:
    a. Conformance with the master plan and zoning regulations;
    b. Relationship of development to topography, soils, drainage, flooding, potential hazard areas and other physical characteristics;
    c. Availability of water, means of sewage collection and treatment, storm water drainage, access and other utilities and services;
    d. Compatibility with the natural environment, wildlife, vegetation and unique natural features;
    e. Adjacent streets and traffic flow, including pedestrian access;
    f. Availability of fire, police and other emergency services protection;
    g. Impacts on area schools.

2. The Comprehensive Plan Future Land Use Map designates the area as Residential Mixed Density Low and Residential Mixed Density Medium.
    - The Residential Mixed Density Low 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.
    - The majority of the mixed-density medium residential land uses are designated in areas that are not yet developed. This district provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes and triplexes.

3. Zoning Regulations:
    - Municipal Code, Section 4-4-6(A) Intent: The “R-2” Low Density District is intended to provide a quiet, low density development for single-family residences. Environmental protection is provided by allowing only single-family residences along with certain other compatible land uses.

- 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. This district provides for other uses which are compatible with such uses.
- The proposed uses are a use-by-right in these zoning districts. The current zoning is compatible with general conditions in the area. The property is adjacent to properties that are zoned “R-2” Low Density District, “R-3” Medium Density District, and “R-3A” Medium High Density District.

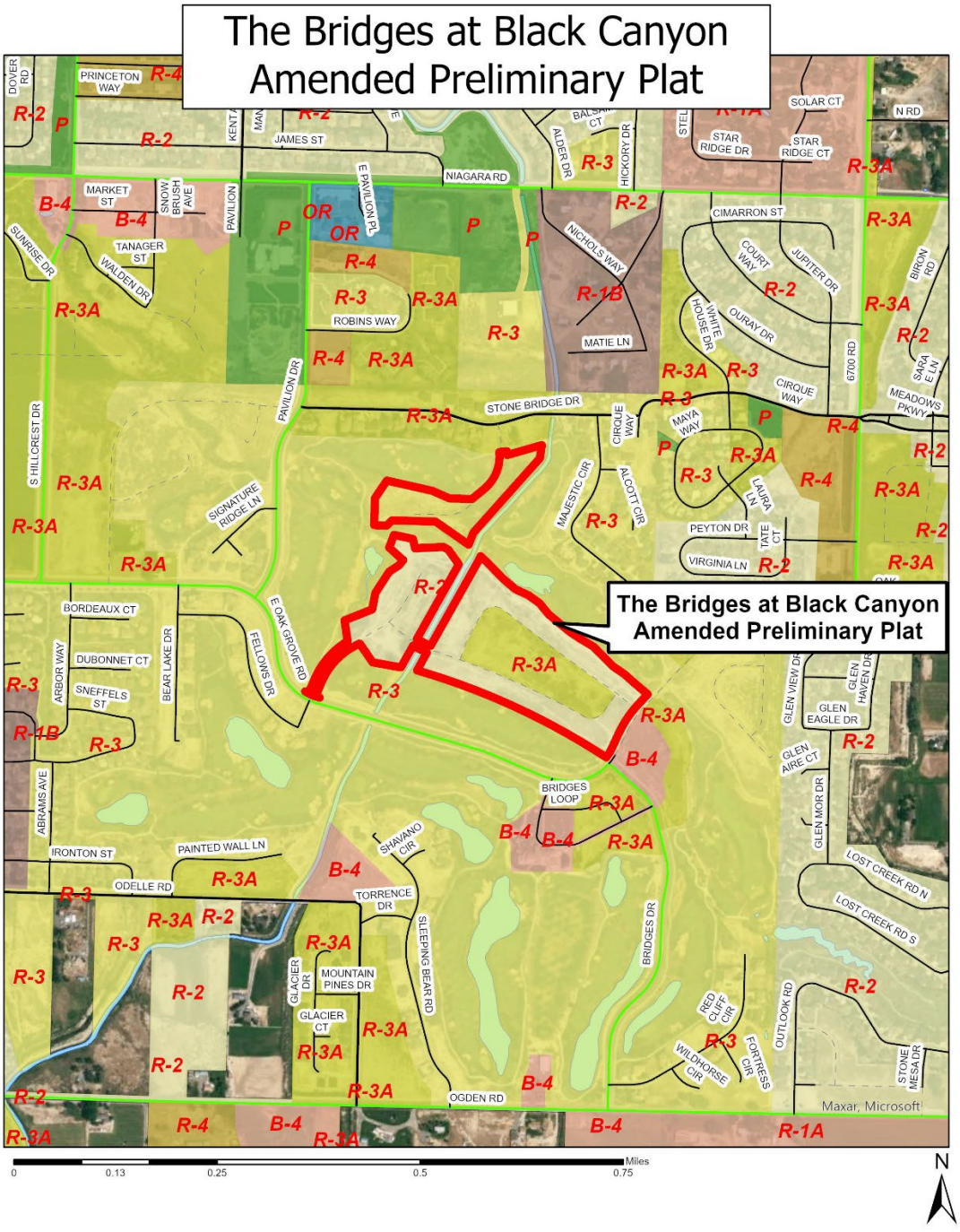
4. The Bridges at Black Canyon Amended Preliminary Plat does not appear to be adverse to the public health, safety and welfare and is in compliance with the City’s Subdivision Regulations.

Planning Commission Recommendation:
The Planning Commission recommended approval of The Bridges at Black Canyon Amended Preliminary Plat at the April 12, 2023 meeting. It was a unanimous vote. “The approval of this Amended Preliminary Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.”

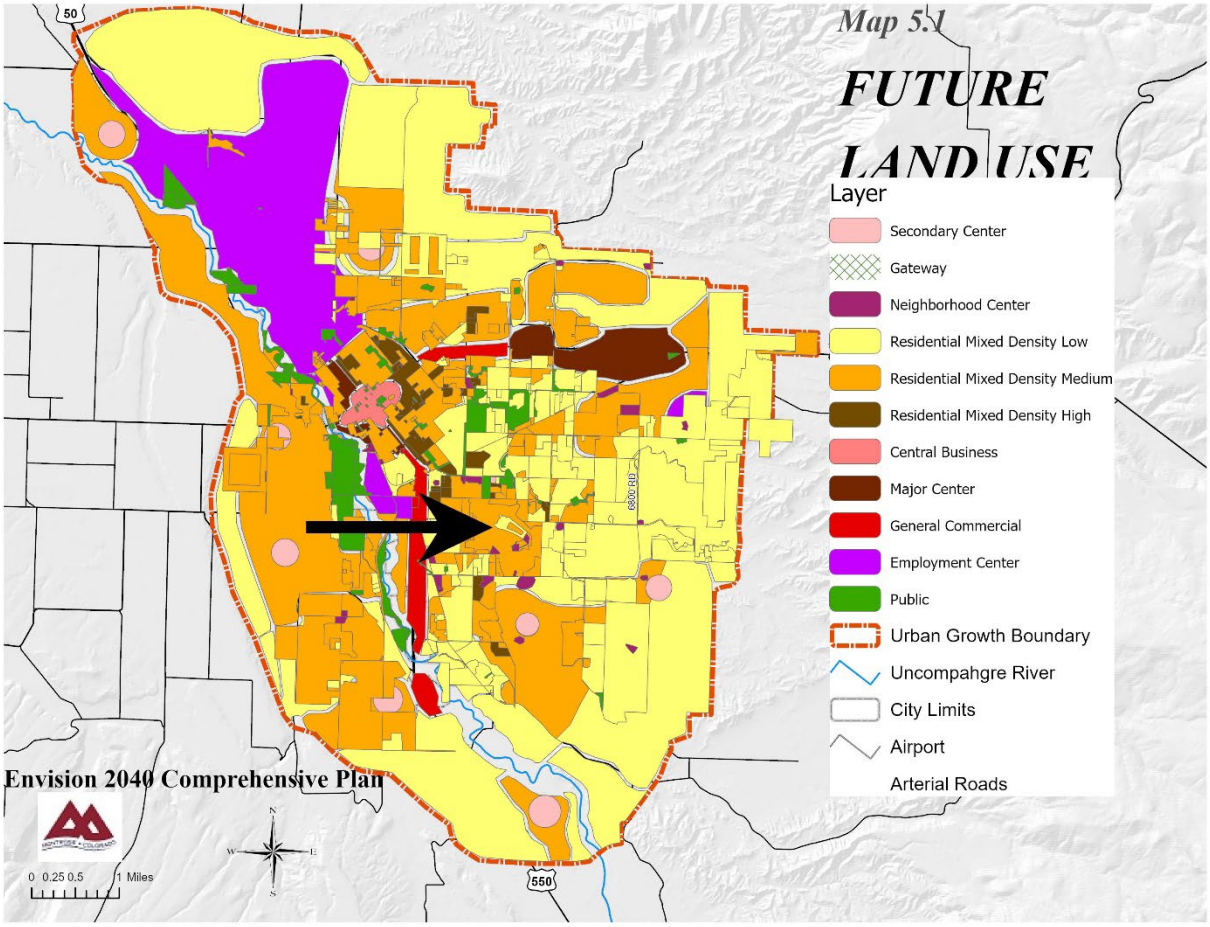
City Council Options:

1. Accept the Planning Commission recommendation and approve The Bridges at Black Canyon Amended Preliminary Plat with the following condition. “The approval of this Amended Preliminary Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.”
2. Approve the amended preliminary plat subject to conditions necessary to implement the provisions of Section 4-7-5 – Subdivision procedure.
3. Disapprove the plat if Council finds the requirements of these regulations have not been met.

EXHIBIT A: Area Maps
Vicinity and Zoning Map



Comprehensive Plan Future Land Use Map



THE BRIDGES AT BLACK CANYON

AMENDED PRELIMINARY PLAT

SITUATED IN SECTION 35, TOWNSHIP 49 NORTH, RANGE 9 WEST & SECTION 3, TOWNSHIP 48 NORTH, RANGE 9 WEST, N.M.P.M.

CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO

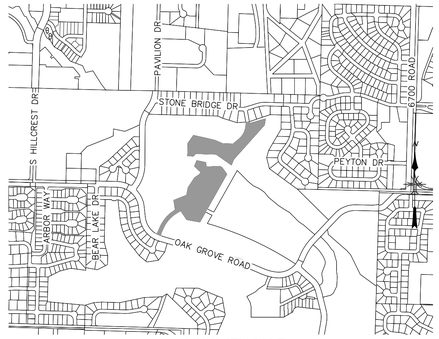
APPROVAL OF PRELIMINARY PLAT

City Engineer _____ Date _____
Scott Murphy, P.E.

City Attorney _____ Date _____
Ben Morris

City Planning Commission Chair _____ Date _____
David Fishering

City Mayor _____ Date _____
Dave Frank



VICINITY MAP
N.T.S.

DEVELOPER: The Bridges of Montrose
2500 Bridges Drive
Montrose, CO 81401

ENGINEER: Del-Mont Consultants, Inc.
125 Colorado Ave.
Montrose, Colorado 81402
1-970-249-2251

BASIS OF BEARINGS:

The bearing along the North line of Golf Area 1, recorded at Reception No. 678029 bears S88°34'10"E (ASSUMED)

LINEAL UNITS STATEMENT:

The Lineal Unit used on this plat is U.S. Survey Feet

PLAT NOTES:

1. Drainage Easements
The drainage easements shown hereon, including those associated with the subdivision and granted under Reception Nos. _____ and _____ in the office of the Montrose County Clerk and Recorder shall be maintained by an owners' association, or in the absence of an owners' association lawfully formed for such purposes, by the owners of all lots final platted in the The Bridges at the Black Canyon jointly and severally in a manner that preserves the grade as originally established and so as to not impede the free flow of water in any way, including but not limited to the placement of fill, construction of fencing and other improvements, or the planting or encroachment of trees and shrubs and other impeding vegetation. The City is not responsible or liable in any manner for the maintenance, repair, or operation of any pipelines, ditches or improvements as located within said easements. Upon failure to properly maintain the drainage easement(s) shown hereon, or in the need to abate a nuisance or public hazard, the City may cause the maintenance or repair to be performed and assess the costs thereof to such owners, and may certify such charges as a delinquent charge to the County Treasurer to be collected similarly to taxes or in any lawful manner.

2. Conveyance of Drainage Easements to Owners Association
By executing this Plat, the owner(s) whose signature(s) appear hereon, joined by the Lienholder(s), if any, whose signatures also appear on this Plat, for and in consideration of TEN AND NO/100 DOLLARS ($10.00), and other good and valuable consideration, in hand paid, hereby sell(s) and quit claim(s) to Black Canyon, Homeowners Association, a Colorado nonprofit corporation, the drainage easements as shown and designated on this Plat.

3. Certificate of Good Standing
The owner(s) whose signature(s) appear on the Certificate of Dedication and Ownership on this Plat have provided the City a current, valid, Certificate of Good Standing bearing Confirmation No. _____, from the Colorado Secretary of State, as proof of the above-named HOA or Owners' Association entity's: i) compliance with all applicable requirements of the Colorado Secretary of State, and ii) good standing with the Colorado Secretary of State.

4. Declaration of Covenants Recorded
The Declaration of Covenants, Conditions, and Restrictions for The Bridges at Black Canyon, Homeowners Association, applicable to the development platted hereon, and made binding to the entity named above, was recorded under Reception No. _____, on the _____ day of _____, 20__ in the office of the Montrose County Clerk and Recorder.

5. Money in lieu of School Land Dedication
All residential lots or residential units having unique legal descriptions shall be required to make payment of money in lieu of school land dedication, at the time of issuance of building permit or certificate of occupancy relative to improvements upon said lot. The payment of money in lieu of school land dedication is subject to § 4-7-7(C)(7) of the Municipal Code. Payments shall be made to the City, to be later disbursed to the RE-1J School District.

6. Local Improvement District
All lots platted hereon shall be subject to assessments for an equitable apportionment of the costs to construct improvements to East Oak Grove Road from this subdivision to Highway 550, Odelle Road from Woodgate Road to Ogden Road between the Easterly Line of this subdivision and Woodgate Road including curb, gutter, sidewalk, base, pavement and related improvements. The Montrose City Clerk is hereby appointed as the Attorney-in-fact of each of the owners of Lots in the BRIDGES AT BLACK CANYON, AN AMENDED PRELIMINARY PLAT OF THE BRIDGES AT BLACK CANYON PLANNED DEVELOPMENT for the purposes of executing improvement district petitions on their behalf, voting on their behalf in any election to approve any financial obligations for such improvement districts and for all other purposes related to the formation of such districts and construction of such improvements. These obligations shall run with the land and be binding upon all successors in interest to the said lots.

CERTIFICATE OF DEDICATION AND OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that the undersigned being the owners of certain lands in the City of Montrose, County of Montrose and State of Colorado to wit:

PARCEL 1:
Outlot F, the Bridges at Black Canyon Filing No. 8 according to the Plat recorded December 8, 2014 at Reception No. 860937

PARCEL 2:
Outlot B, the Bridges at Black Canyon Filing No. 8 according to the Plat recorded December 8, 2014 at Reception No. 860937

Have by these presents laid out, platted and subdivided the same into lots, as shown on this plat, under the name and style of The Bridges at Black Canyon and do hereby dedicate, grant and convey to the City of Montrose, Colorado, for the use of the public, Chimney Rock Way, Rim Rock Court and Bear Dance Drive.

The easements shown on this plat are dedicated, granted and conveyed to the City of Montrose, Colorado for public utilities, including but not limited to water, sewer, electrical, telephone, gas and CATV lines, and drainage easements specifically labeled for dedication, together with perpetual right of ingress and egress for installation, maintenance and replacement of such facilities. The dedication of easements as herein provided shall not include those easements exclusively utilized for irrigation improvements, or otherwise subject to a previously recorded conveyance.

Executed this_____day of_____, 20____.

_____
Bridges of Montrose, LLC

STATE OF COLORADO)
)ss.
COUNTY OF MONTROSE)

The above Certificate of Dedication and Ownership was acknowledged before me on this _____ _____day of_____, 20____,
by_____

Witness my hand and official seal.
My commission expires_____

_____
Notary

(SEAL)

SURVEYOR'S CERTIFICATE

I, Nicholas Barrett, a Registered Land Surveyor in the State of Colorado, do hereby certify that there are no roads, pipelines, irrigation ditches or other easements or rights-of-way in evidence or known to me to exist on or across said property except as shown on this plat. I certify that I have made the survey represented by this plat and that this plat accurately represents said survey, and conforms to all applicable requirements of the City Subdivision Regulations and applicable law. I further certify that all monuments shown hereon actually exist and their positions are as shown.

C.R.S. Section 38-51-106 Statement: this plat does not represent a title search by the Surveyor, nor by any professional corporation or business entity with which said Surveyor may be associated. Information regarding the title work performed for and used in producing this plat may be found in the title policy issued by Fidelity National Title Company, Policy No. 210-F03688-22, dated July 25, 2022.

_____
Colorado Registered Land Surveyor
Registration No. 38037
Date:_____

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.

ATTORNEY'S CERTIFICATE

I,_____, an attorney at Law, duly licensed to practice in Colorado, do hereby certify that I have examined the title of all land herein platted and described in the above Certificate of Ownership and Dedication, and that title to such land is in the owners and dedicators; and that the title to all dedicated property therein described, is free and clear of all liens and encumbrances, except

_____

_____

_____
Attorney
Atty. Reg. No._____
Date:_____

ENGINEER'S CERTIFICATE

I, Nicholas Barrett, a Registered Engineer in the State of Colorado, do hereby certify that the sanitary sewer system, water distribution system and the storm drainage system shown on the accompanying plans of this Subdivision are properly designed, meet City of Montrose specifications, and are adequate to properly serve the Subdivision shown hereon. I further certify that the sanitary sewer system, water distribution system, storm drainage system, streets, parks, and other improvements are designed and constructed in accordance with applicable City specifications and regulations.

_____ _____
Engineer
Registration No. 38037
Date:_____

CERTIFICATE OF COMPLETED IMPROVEMENTS

I,_____, City Engineer, certify that all improvements and utilities required by the current Subdivision Regulations of the City of Montrose, have been constructed, inspected and approved in this Subdivision in accordance with applicable City ordinances, regulations and specifications, and a Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion has been issued, as required by the City's Municipal Code. The following landscaping and/or irrigation improvements have been secured with a Subdivision Improvement Agreement:

_____
City Engineer
Registration No. _____
Date:_____

APPROVAL OF CITY MANAGER

Approved this_____day of_____, 20____ by_____, Deputy City Manager of the City of Montrose.

_____
Deputy City Manager

APPROVAL OF CITY ATTORNEY

Approved for recording this_____day of_____, 20____,by_____
City Attorney of the City of Montrose.

_____
City Attorney
Atty. Reg. No. _____

APPROVAL OF CITY COUNCIL

Approved this_____day of_____, 20____ by_____, City Manager of the City of Montrose; all conveyances of interests in real property made on this plat are hereby accepted by the City.

_____
Mayor

RECORDER'S CERTIFICATE

This plat 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._____.

_____ _____
Deputy

_____
Clerk and Recorder
Montrose County, Colorado

DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING
125 Colorado Ave ▼ Montrose, CO 81401 ▼ (970) 249-2251 ▼ (970) 249-2342 FAX
www.del-mont.com ▼ service@del-mont.com

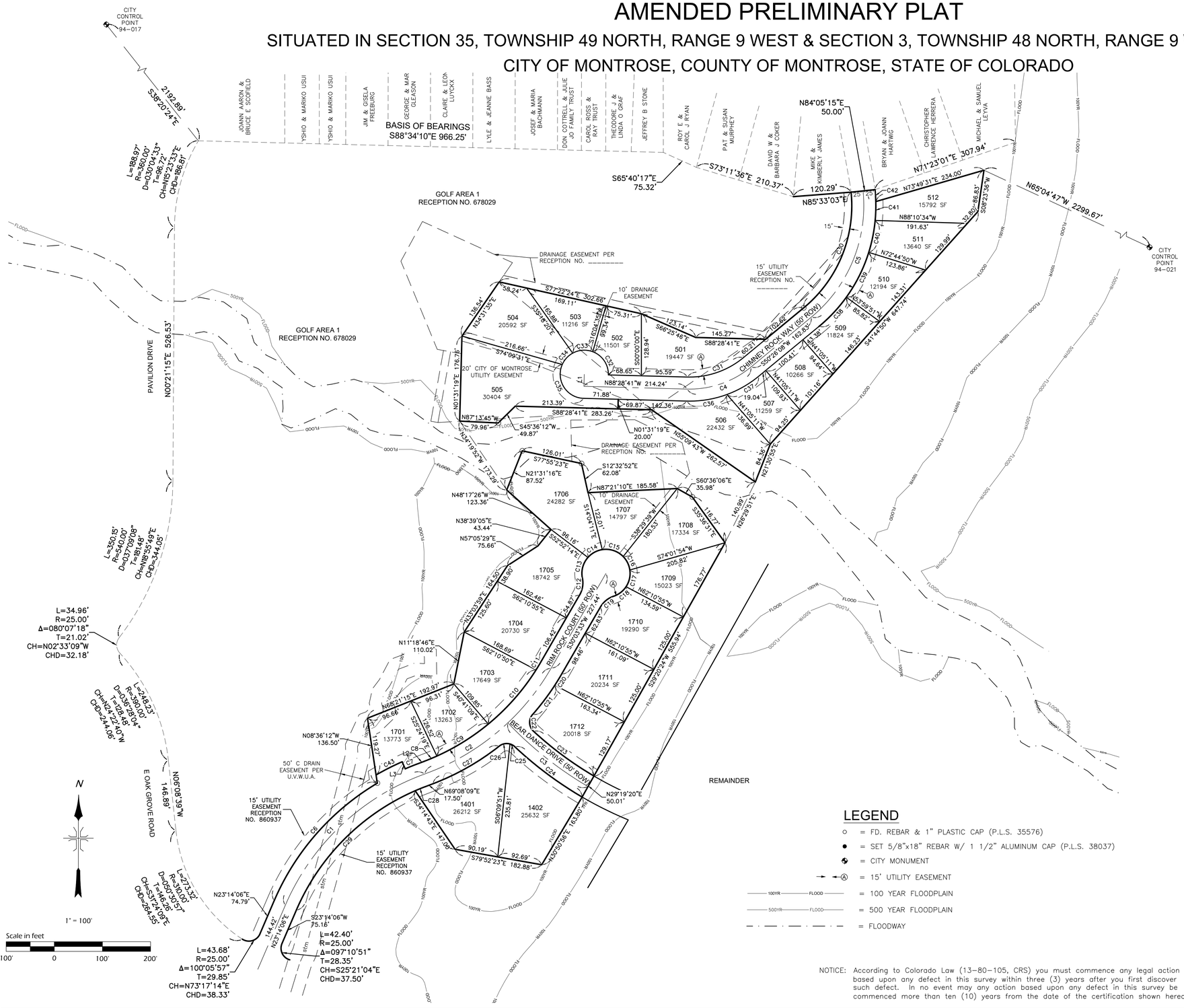
TITLE: THE BRIDGES AT BLACK CANYON AMENDED PRELIMINARY PLAT			
CLIENT: THE BRIDGES OF MONTROSE			
ADDRESS & PHONE: 2500 BRIDGES DRIVE MONTROSE, CO 81401			
FIELD BOOK:	DRAWN BY: DCC	DATE: 2023-03-22	
SHEET: 1 of 2	FILE: 22034V_PLAT-PRELIM	JOB NO.: 22034	TYPE: PLAT

THE BRIDGES AT BLACK CANYON

AMENDED PRELIMINARY PLAT

SITUATED IN SECTION 35, TOWNSHIP 49 NORTH, RANGE 9 WEST & SECTION 3, TOWNSHIP 48 NORTH, RANGE 9 WEST, N.M.P.M.

CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO



CURVE DATA					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	409.23'	500.00'	046°53'40"	S46°40'56"W	397.90'
C2	349.68'	500.00'	040°04'13"	N50°05'39"E	342.60'
C3	213.45'	750.00'	016°18'23"	S51°31'04"E	212.73'
C4	143.42'	200.00'	041°05'10"	N70°58'43"E	140.36'
C5	295.03'	300.00'	056°20'50"	N22°15'41"E	283.29'
C6	330.36'	525.00'	036°03'15"	S41°15'43"W	324.94'
C7	25.00'	525.00'	002°43'40"	S67°46'22"W	24.99'
C8	28.40'	475.00'	003°25'31"	N67°25'24"E	28.39'
C9	126.23'	475.00'	015°13'36"	N58°05'51"E	125.86'
C10	150.56'	475.00'	018°09'39"	N41°24'14"E	149.93'
C11	18.77'	475.00'	002°15'52"	N31°11'28"E	18.77'
C12	36.14'	50.00'	041°24'55"	N09°21'16"E	35.36'
C13	46.19'	50.00'	052°55'46"	S15°06'51"W	44.56'
C14	34.54'	50.00'	039°35'02"	S61°22'15"W	33.86'
C15	47.43'	50.00'	054°21'06"	N71°39'41"W	45.67'
C16	31.69'	50.00'	036°18'36"	N26°19'50"W	31.16'
C17	36.32'	50.00'	041°36'55"	N12°37'56"E	35.52'
C18	33.19'	50.00'	038°01'44"	N52°27'15"E	32.58'
C19	36.14'	50.00'	041°24'55"	S50°45'50"W	35.36'
C20	26.63'	525.00'	002°54'21"	N31°30'43"E	26.62'
C21	76.50'	525.00'	008°20'55"	N37°08'21"E	76.43'
C22	38.64'	25.00'	088°33'56"	S02°58'34"E	34.91'
C23	156.53'	725.00'	012°22'13"	S53°27'04"E	156.23'
C24	174.67'	775.00'	012°54'48"	S53°14'48"E	174.30'
C25	11.92'	25.00'	027°18'31"	N60°26'37"W	11.80'
C26	23.62'	25.00'	054°08'13"	S78°50'01"W	22.75'
C27	159.16'	525.00'	017°22'11"	N60°27'03"E	158.55'
C28	21.84'	475.00'	002°38'05"	S67°49'07"W	21.84'
C29	358.69'	475.00'	043°15'59"	S44°52'05"W	350.23'
C30	270.45'	275.00'	056°20'50"	N22°15'41"E	259.68'
C31	125.49'	175.00'	041°05'10"	N70°58'43"E	122.82'
C32	61.87'	50.00'	070°53'59"	S33°55'41"E	58.00'
C33	43.07'	50.00'	049°20'59"	N85°56'50"E	41.75'
C34	32.55'	50.00'	037°18'00"	N42°37'21"E	31.98'
C35	98.13'	50.00'	112°27'02"	N32°15'10"W	83.12'
C36	85.05'	225.00'	021°39'25"	N80°41'35"E	84.54'
C37	76.30'	225.00'	019°25'45"	N60°09'00"E	75.93'
C38	83.20'	325.00'	014°40'03"	N43°06'04"E	82.97'
C39	104.65'	325.00'	018°26'54"	N26°32'36"E	104.19'
C40	67.79'	325.00'	011°57'05"	N11°20'36"E	67.67'
C41	39.13'	325.00'	006°53'57"	N01°55'05"E	39.11'
C42	24.85'	325.00'	004°22'51"	N03°43'19"W	24.84'
C43	60.73'	541.00'	006°25'54"	S63°11'35"W	60.70'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N01°31'19"E	25.00'
L2	S69°08'09"W	17.50'
L3	N23°35'28"W	16.00'

LEGEND

- o = FD. REBAR & 1" PLASTIC CAP (P.L.S. 35576)
- ● = SET 5/8"x18" REBAR W/ 1 1/2" ALUMINUM CAP (P.L.S. 38037)
- = CITY MONUMENT
- = 15' UTILITY EASEMENT
- = 100 YEAR FLOODPLAIN
- = 500 YEAR FLOODPLAIN
- = FLOODWAY

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DMC DEL-MONT CONSULTANTS, INC.
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FIELD BOOK:	DRAWN BY: DCC	DATE: 2023-03-22	TITLE: THE BRIDGES AT BLACK CANYON AMENDED PRELIMINARY PLAT
SHEET: 2 of 2	FILE: 22034V_PLAT-PRELIM	JOB NO.: 22034	CLIENT: THE BRIDGES OF MONTROSE
			ADDRESS & PHONE: 2500 BRIDGES DRIVE MONTROSE, CO 81401
			TYPE:

EXHIBIT B: Code Excerpts for Subdivisions

Sec. 4-7-5. Subdivision procedure.

(A) The subdivision of land shall be accomplished in accordance with the procedures provided in this Section, except for those instances where different governing procedures are set forth pursuant to Sections 4-7-9 through 4-7-11, Informal Review and Sketch Plan. The City Council shall set all application fees related to land use action per resolution.

(1) Prior to submittal of the subdivision application, the subdivider shall make a reasonable effort to consult informally with property owners of record adjoining or within 100 feet of the proposed subdivision, and the City. No fee shall be required for such review or discussions of any plans or data concerning the proposed subdivision, prior to sketch plan review. The City shall not be bound by virtue of any discussions during the informal review stage.

(2) The proposal shall be consistent with the Master Plan, City subdivision and Zoning Regulations, standards and other applicable ordinances and regulations and will be reviewed, considering the following at a minimum.

(a) Conformance with the Master Plan and Zoning Regulations;
(b) Relationship of development to topography, soils, drainage, flooding, potential natural hazard areas and other physical characteristics;
(c) Availability of water, means of sewage collection and treatment, stormwater drainage, access and other utilities and services;
(d) Compatibility with the natural environment, wildlife, vegetation and unique natural features;
(e) Adjacent streets and traffic flow, including pedestrian access;
(f) Availability of fire, police and other emergency services protection;
(g) Impacts on area schools.

(3) A subdivider who intends to immediately develop only a portion of a full tract shall nevertheless submit an informal sketch plan for the entire tract showing his present plans for its eventual development.

(4) Following informal review when applicable, and in all cases except when not required by other provisions of this Chapter, the applicant shall file copies of the sketch plan application and sketch map, along with all required supporting plans, with the City. The submittal of such application, map and supporting plans shall comply with City's application and fee requirements.

Filing of a sketch plan shall not be required in cases where a subdivision, which does not qualify as a minor or amended subdivision, primarily due to a lack of installed on or off-site public improvements. In no case shall the sketch plan requirement be waived under this provision for subdivision proposals containing more than three divisions of real property, or where any part of the subdivision has been subdivided without a sketch plan under any part of this Official Code of the City of Montrose, Colorado, within the three years prior to the date of submission.

(5) The sketch plan review shall commence only upon submittal of a completed sketch map, a completed sketch plan application form, which form shall be provided by the City, and all required supplemental information as set forth below, as well as any additional materials determined by City staff to be necessary for processing of the application.

(a) Sketch Map. The sketch map shall include the following:
(i) A location map, of approximately four inches by four inches, showing the project location in relation to the City of Montrose, with appropriate reference to major and minor arterial and

collector roads or highways.

(ii) A detailed map showing property boundaries of the subdivision, north arrow and date. The scale of the map shall not be less than one inch equals 200 feet. The map shall include the name of the subdivision, name of the county, township, range, Section and quarter Section. The map shall further indicate zoning and land use of all lands within 300 feet of any property boundary owned by or under option to the subdivider. A title box shall be located in the lower right corner of the map. In the case of large subdivisions requiring more than one sheet at such a scale, an index map showing the total area on a single sheet shall also be submitted.

(iii) A conceptual drawing of the lot and street layout indicating the approximate area and number of individual lots and access to the property.

(iv) Significant natural and manmade features on the site, such as streams, lakes, natural drainage ways and wetlands; vegetation types including locations of wood areas; wildlife habitats; scenic corridors; visual impacts; solar access; existing buildings; utility lines and easements; irrigation ditches; bridges and similar physical features; existing development on adjacent property; and footprints of existing buildings.

(v) Total acreage of the tract.

(vi) Existing and proposed zoning district boundary lines. General land use divisions, including residential types, commercial, industrial, parks, open space and community facilities, including the proposal's relevance to underlying zoning.

(vii) Type and layout of all proposed infrastructure, including streets, utilities, water and sewer systems, and impact on existing systems.

(viii) Public use areas proposed to be dedicated to the public, the purpose of the dedication, and their relationship to existing public use areas.

(ix) Existing and proposed land use patterns, including street system, of both the tract proposed for development and immediately adjacent land.

(x) Existing site problems or peculiarities, such as areas of poor drainage, existing floodplain, geological hazards and seepage water.

(xi) Existing and proposed stormwater discharge facilities pertaining to the property.

(b) Sketch Plan Application. The sketch plan application shall include, but not be limited to, the following information pertaining to the proposed subdivision (this information may be provided in a narrative format):

(i) Estimated total number of gallons per day of water system requirements, source of water to supply subdivision requirements, and proposed dedication of water rights in accordance with existing City ordinances.

(ii) Estimated total number of gallons per day of sewage to be treated and means for sewage disposal.

(iii) Availability of electrical power, natural gas, CATV, telephone and other utilities necessary or proposed to serve the subdivision.

(iv) Access to the property, off-street parking, school bus stop area, and mail box location.

(v) Total number of proposed dwelling units.

(vi) Demonstrated compatibility with natural features.

(vii) Identification of all activities of the subdivision which shall require approval by permitting agencies at the local, state and federal level, and a description of the approval so required.

(viii) Names and addresses of all property owners of record adjoining or within 100 feet of the proposed subdivision.

(ix) Summary of issues or concerns resulting from informal review with neighboring property owners, if applicable.

(c) Sketch Plan Supplemental Documents. The sketch plan application shall also include the following

supplemental documentation:

Disclosure of ownership, with supporting documentation from a title insurance company or, if acceptable to the City, an attorney licensed in the State of Colorado, which shall set forth a legal description of the property and title ownership of the property.

(6) Upon complete submittal of all required information, City staff shall provide initial review of the sketch plan within 45 days. Upon completion of initial review of the plan and submission by the applicant of any supplemental materials or necessary revisions as requested by City staff, the sketch plan application shall be placed on an upcoming Planning Commission agenda for which space is available and for which all notice requirements can be met.

(7) Advance notice of the sketch plan review by the City Planning Commission shall be provided by publication, with a location map of the property to be subdivided. Fifteen-day advance written notice shall also be provided, by hand delivery or deposit into the U.S. mail, to all property owners of record adjoining or within 100 feet of the proposed subdivision. The City shall provide such notice. The review and discussion of the Sketch Plan by the Planning Commission shall be informal and non-binding in nature, and shall serve as a means to provide guidance to the subdivider.

(B) Preliminary Plat.

(1) An application for preliminary plat shall be submitted to the City and shall comply with applicable City submittal requirements.

(2) The City may distribute copies of the preliminary plat and supporting plans or data as appropriate to the County Land Use Department, the school district, the natural gas, CATV, electrical power and telephone companies, the Fire Protection District, the Colorado Department of Transportation, the Federal Aviation Administration, the Uncompahgre Valley Water User's Association, applicable City departments and employees, and other entities as appropriate.

(3) The preliminary plat and proposed improvements shall comply with all requirements of these subdivision regulations and other applicable City design and construction specifications and standards. The plat shall be drawn to a scale of not less than one inch equals 100 feet. (See Chapter 4-4 of these Zoning Regulations.)

(4) The preliminary plat shall contain, at a minimum, the following:

(a) The name of the subdivision and the name, address and phone number of the subdivider, and his representatives, if applicable. Such information shall be contained in a title box located on the lower right corner of the plat.
(b) A certificate by the engineer or surveyor preparing the plat attesting to the accuracy of the plat. Such information shall be contained in a title box located on the lower right corner of the plat and shall be signed and stamped by the licensed professional engineer or registered surveyor, and shall indicate the scale used and direction of true north.
(c) A certificate by a licensed professional engineer that the water, stormwater, sewer systems, and all other improvements are properly engineered and designed in compliance with applicable requirements of the City and state.
(d) A certificate of ownership of the subject property.
(e) A location map, of approximately four inches by four inches, showing the project location in relation to the City of Montrose, with appropriate reference to significant roads or highways. The location map shall be provided both on the preliminary plat and separately on letter size paper.
(f) Certification on forms approved by the City to document approval of the plat; and the form of the certificates proposed to be used to comply with the requirements imposed for the final plat as found

in Subsection (C) of this Section.

(g) Two-foot elevation contours and the boundaries of the base flood (100-year flood) and floodway and base flood elevation data, as defined and specified in the City's floodplain management regulations.

(h) The then-current zoning designations of the subdivision and of adjacent properties.

(i) The names of the owners of record of adjacent properties, and the property lines of adjacent properties as space will allow.

(j) The location and ownership interest of existing and proposed watercourses including lakes, swamps, ditches and floodprone areas (the inclusion of such watercourses within the jurisdictional authority of local, state or federal regulatory agencies shall also be noted); the location of existing and proposed streets, easements, utility lines, poles and towers, sewer lines, water lines, drains, culverts and other underground utilities and stormwater drainage facilities both on the proposed subdivision and adjacent properties as practical.

(k) The layout of all lots showing the building lines, dimensions and lot areas and footprints of existing buildings, if any. The plat shall include at least two references to City GPS coordinates.

(l) The layout and location of all parks and open space.

(m) The location of all land to be reserved or dedicated for public use.

(5) The following shall be submitted accompanying the preliminary plat together with plans and specifications prepared by a licensed professional engineer consistent with City standards and specifications, for all required or proposed improvements. All plans and specifications shall be signed and stamped by a licensed professional engineer.

(a) Plans for the proposed sanitary sewer system showing location, grade, pipe sizes and invert elevations, and the connection points to the existing system.

(b) Plans for the water system and fire protection system showing locations, pipe size, valves, fire hydrants and connection points to the existing system.

(c) Plans for the storm drainage system showing location, pipe sizes, grades and discharge points, including off-site improvements. Such plans shall comply with any applicable City stormwater drainage requirements.

(d) Plans for any improvements specifically affecting watercourses within the jurisdictional authority of local, state or federal regulatory agencies, noting the required permits therefor.

(e) Plans for proposed streets, sidewalks, recreation paths, showing grade and cross Section, trails and walkways and streetlight and street names.

(f) A soil or geological report prepared and certified by a professional geologist or soil scientist.

(g) Plans for piping ditches, or improvements to waterways.

(h) Plans for parks and recreation facilities.

(i) A traffic impact study for all developments when estimated vehicle trips per day will exceed 250 and plans for recommended traffic mitigation measures. The study shall provide, but not be limited to, traffic capacity for existing road infrastructure, proper analyses of transportation linkages in conformance with transportation plan, cumulative traffic impact of development at build-out, and proposed infrastructure design to account for such considerations. The scope of the impact study may be broadened to include other nearby subdivisions and developments, allowing for cooperative participation and cost sharing.

(6) If the applicant intends to develop the project in phases, a phasing plan will be required to be submitted to and approved by the City. The phasing plan must include the numbers of lots in each phase, the infrastructure planned for completion with each phase that is necessary to allow the phase to be properly integrated into City services as determined by the City Engineer, the amenities to be constructed with each phase, and all other information pertinent to the completion of the development.

(7) Upon submittal of all required information, the City staff shall provide initial review of the preliminary plat within 45 days. Upon completion of initial review of the preliminary plat and submission by the applicant of any supplemental materials and revisions necessary to comply with City regulations, the Preliminary Plat Application shall be placed on an upcoming Planning Commission agenda for which space is available and for which all notice requirements can be met. City staff shall make a recommendation to the City Planning Commission to approve the preliminary plat, provided that all supporting documentation has been properly submitted and the plat meets all requirements, disapprove the plat if it does not appear to comply with the provisions of this Chapter, or approve the plat with conditions or modifications.

(8) Advance notice of the preliminary plat review by the City Planning Commission shall be provided by publication, with location map of the property to be subdivided. The City shall provide such notice at least 15 days in advance of the scheduled meeting.

(9) Following receipt of a completed Preliminary Plat Application, the applicant shall be required to diligently pursue the application by providing revised plans, plat maps, and other necessary information in a timely fashion. Where the applicant fails to meet this requirement, the City shall, in writing, request the applicant to withdraw the application. If the applicant fails to take any further action on the Preliminary Plat Application for a period of six consecutive months following such request to withdraw, the Preliminary Plat Application shall automatically expire and all applicable fees shall be non-refundable. When a Preliminary Plat Application has expired under this Subsection, in the event the applicant wishes to pursue development of the property the applicant must re-apply and pay any applicable fees.

(10) Upon review by the City Planning Commission, the commission shall make a recommendation to the City Council to approve the preliminary plat, provided that all supporting documentation has been properly submitted and the plat meets all requirements, disapprove the plat if it does not appear to comply with the provisions of this Chapter, or approve the plat with modifications or conditions. The reasons for such recommendation shall be included in the minutes of the Planning Commission meeting and provided in writing to the applicant upon request.

(11) Unless the subdivider withdraws the preliminary plat from review, or it expires as set forth herein, the plat shall be submitted to the City Council for final review and action. Advance notice of the preliminary plat review by the City Council shall be provided by posted notice.

(12) Council may approve the preliminary plat, approve the plat subject to conditions necessary to implement the provisions of this Chapter, or disapprove the plat if the Council finds that the requirements of these regulations have not been met.

(13) No construction of the required subdivision improvements shall commence until approval of the preliminary plat by the City Council and submittal of both a Mylar of the preliminary plat, as finally approved with signed certificates as required by the City, and a copy of the preliminary plat in a digital format acceptable to the City and compatible with City computer systems. Upon approval and submittal of the Mylar, and supporting documentation as required, the City shall then issue a written notice to proceed.

(C) Final Plat.

(1) No land shall be subdivided, or any parcel thereof sold or conveyed, until a final plat has been approved and either a Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion has been issued in accordance with this Subsection (C).

(a) Final plat submittals shall comply with all application and fee requirements. The submittal of final

plats for approval must occur within five years of approval of a related preliminary plat, unless an extension of time is granted by the City Council, or the timing of the submittal is consistent with a phasing plan that has been submitted by the applicant and approved by the City. The applicant may request and the City Council may approve an extension of time for filing the final plat where development of the project in accordance with the preliminary plat has been pursued with due diligence.

(b) Building Permits:
  (i) Until the public improvements are accepted by the City, the City shall not be obliged to issue any building permits within a subdivision, except as provided herein. Provided that all other applicable City codes and regulations have been satisfied, building permits may be issued only to the subdivider for any property with an approved Preliminary Plat. The subdivision must have sufficient access and water to allow for adequate fire protection as determined by the fire protection district. No certificates of occupancy, temporary or otherwise, shall be issued unless and until:
    (a) All public and necessary on- and off-site improvements have been completed;
    (b) A Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion has been issued by the City; and
    (c) A final plat has been approved and recorded.
  (ii) A Letter of Substantial Completion or a Preliminary Letter of Infrastructure Completion shall evidence City inspection and approval.
  (iii) The two calendar year Construction Warranty shall begin to run from the date of said Preliminary Letter of Infrastructure Completion.

(c) The final plat shall contain all plat elements required as a condition of preliminary plat approval and the following, all in forms acceptable to the City:
  (i) The total number of lots and lot numbers or letters.
  (ii) Sufficient data to determine easily and reproduce on the ground the location of all monuments, and the bearing and length of every street line, boundary line, block line, lot line and building line whether curved or straight, including the radius, central angle and tangent distance for the centerline of curved streets. Other curved lines shall show arc or chord distance and radius. All dimensions shall be to the nearest 1/100 of a foot and all angles to the nearest second. The plat shall include at least two references to City GPS coordinates.
  (iii) A certificate by a registered surveyor, attesting to the accuracy of the survey plat and placement of monuments, and compliance with the requirements of this Chapter and state law.
  (iv) A certificate of dedication for streets, easements and other property dedicated for public use, properly executed and notarized.
  (v) A certificate by a licensed professional engineer that the sanitary sewer, water distribution and storm drainage systems, streets and other improvements are properly engineered, designed and constructed in compliance with all applicable requirements of the City and the state.
  (vi) Separate Certificate of Approval of the plat by the City Attorney.
  (vii) A certificate of an attorney that title to the property is in the name of those parties executing the dedication, and that property dedicated to the City will be free and clear of all liens and encumbrances affecting marketability.
  (viii) A certificate by the City Engineer specifying which improvements have been completed and listing those that require security prior to final plat approval.
  (ix) A certificate by the City Clerk as to receipt of any security for the completion of improvements.
  (x) The name of the subdivision and the name, address and phone number of the subdivider, and his representative if applicable, said information to be included within a title box located on the lower right corner of the plat.

(xi) The name of the registered surveyor preparing the plat, the date of the plat, said information to be included within a title box located on the lower right corner of the plat.
(xii) A certificate of recording to be executed by the County Clerk and Recorder.
(xiii) The scale used, direction of true north, and basis of bearing.
(xiv) A location map, of approximately four inches by four inches, showing the project location in relation to the City of Montrose, with appropriate reference to significant roads or highways. The location map shall be provided both on the final plat and separately on letter size paper.
(xv) The location and ownership interest of all watercourses including lakes, swamps, ditches and floodprone areas; the location and names of streets, sidewalks, easements, utility lines, poles and towers, sewer lines, water lines, drains, culverts and other underground utilities and stormwater drainage facilities.
(xvi) The layout of all lots showing the building lines, dimensions and lot areas.
(xvii) The layout and location of all parks, trails, recreation paths and open space.
(xviii) The location of all land to be reserved or dedicated for public or other uses and the boundaries of the base flood (100-year flood) and floodway and base flood elevation data, as defined and specified in the City's floodplain management regulations.
(xix) Plat notes and restrictions as appropriate to implement compliance with this Chapter, conditions of approval as necessary or desirable to implement the City's Master Plan.
(xx) Plat notes, easements and restrictions as appropriate to implement required FAA aviation regulations.

(2) The final plat shall be accompanied by a computation showing closure of the tract boundary to one foot in 5,000 feet or better. The final plat and accompanying plans shall be drawn to a scale of not less than one inch equals 100 feet. If discrepancies are believed to exist, the City may have the plat checked by an independent registered surveyor at the subdivider's expense.

(3) Any conditions or improvements imposed on the applicant by the City Council under the preliminary plat approval must be shown on the final plat and either completed, or the appropriate security under Subsection (C)(5) of this Section, prior to approval by the City Council.

(4) The final plat may be submitted for a portion of the preliminary plat, or phased, subject to the following conditions:

(a) The applicant has submitted a phasing plan that has been approved by the City.
(b) All required improvements, utilities and road infrastructure must be accessible to the remaining aggregate of unsubdivided land, or outlot.
(c) In instances where completion of required improvements, utilities or road infrastructure within the outlot is determined by the City to be necessary as a condition of approval of that final plat, the developer shall be required to complete said improvements, utilities or road infrastructure upon approval of that final plat. This may include, but not be limited to, completion of necessary road infrastructure, stormwater drainage system, trails and park development.
(d) In instances where the dedication of land for public purposes within the outlot is determined by the City to be necessary as a condition of approval of that final plat, the developer shall be required to dedicate said lands upon approval of that final plat. This may include, but not be limited to, the dedication and development of land for parks, trails, open space, rights-of-way and easements.

(5) The final plat shall be accompanied by security for the completion of any uncompleted improvements in accordance with Section 4-7-8 of these regulations.

(6) Accompanying the final plat shall be two copies of the as-built plans or record drawings for sanitary sewers, storm sewers or drainage systems and the water and fire systems showing grades, pipe sizes, pipe types, outlets, connection points and other information which the City Engineer may require

along with as-built plans for all other utility systems. As-built plans and data shall also be provided in a digital format compatible with City computer systems, and in accordance with City specifications. As-built plans for any improvements not completed at the time the final plat is submitted shall be submitted prior to inspection or approval of the improvements and release of any security. All as-built plans and data shall be signed and stamped by a licensed professional engineer.

(7) Upon complete submittal of all required information, City staff shall, within 30 days, provide initial review of the final plat. Upon completion of an initial review of the final plat and submission by the applicant of any supplemental materials or necessary revisions as requested by City staff, the application shall be placed on an upcoming City Council agenda for which space is available. No final plat shall be placed on a City Council agenda unless and until all necessary materials have been submitted, reviewed and determined by City staff to meet all applicable City codes and regulations.

(8) City Council may approve the final plat, approve it subject to conditions necessary to implement the provisions of this Chapter, or disapprove the plat if it finds that the requirements of these regulations have not been met.

(9) No final plat shall be approved by the City Council until:

(a) All of the improvements required by these subdivision regulations have been installed, inspected and approved by the City Engineer, or properly secured in accordance with the provisions of Section 4-7-8 of these regulations on forms approved by the City.
(b) Two hard copies of as-built plans and data for completed utility improvements have been provided, reviewed and accepted by the City Engineer, and also provided in a digital format acceptable to the City and compatible with City computer systems. As-built plans for any improvements not completed at the time the final plat is submitted, and secured in accordance with the provisions of Section 4-7-8, shall be submitted prior to inspection or approval of the improvements and release of any security. All as-built plans and data for completed utility improvements shall be signed and stamped by a licensed professional engineer.
(c) The final plat has been submitted in final form on two reproducible Mylars, with all requisite signatures, and also in a digital format acceptable to the City, and compatible with City computer systems.
(d) Payment to the City of any costs incurred by the City within the subdivision review process, which costs are specifically subject to reimbursement.
(e) The security for the two calendar year construction warranty has been provided by the subdivider in a form acceptable to the City.

(10) Following City Council approval of the final plat and verification that the documentation has met all applicable codes and regulations, the final plat shall be executed by the appropriate City staff and recorded with due diligence.

(Code 2012, § 4-7-5; Ord. No. 2062 , 6-2-2005; Ord. No. 2092 , 11-17-2005; Ord. No. 2173 , 11-15-2007; Ord. No. 2229 , 11-5-2009)

CONTRACT AWARD CONSIDERATION

TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: April 12, 2023
RE: Block 93 Sewer Replacement Contract Award Consideration
CC: William Bell, Shani Wittenberg, David Bries

Action

Consider the award of a construction contract to Skip Huston Construction in the amount of $468,104.82 for completion of the Block 93 Sewer Replacement Project.

Background

Block 93 is the first alley north of Main Street between Cascade and Townsend Avenues as shown in Figure 1. As is typical in this area of the City, the sanitary sewer lines are located within the alleys along with other utilities such as power, natural gas, and communications lines. This particular sewerline has reached the end of its life, has experienced pipe failures in several areas and is in need of replacement. In addition to the main east-west alleyway line, a line running north from the alley to North 1st Street is also in need of replacement as shown on Figure 1. Further downstream of Block 93 on the western side of Townsend Avenue, it is also necessary to insert manholes at each end of the alley in front of AutoZone in order to facilitate future lining of this sewerline.

Given the constricted nature of the alleyway, the east-west replacement will be performed using trenchless technologies. Where more space is available, remaining work on the project will be performed using conventional open-cut excavations.

Project Bidding and Contract Award

Construction of the project was put out for bid on March 19th and bids were publicly received on April 12, 2023. Bids were received from three 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
Skip Huston Construction	Montrose, CO	$468,104.82
Ridgway Valley Enterprises	Montrose, CO	$503,607.50
Haynes Excavation	Montrose, CO	$611,096.20

The low bidder, Skip Huston Construction, is considered qualified to perform the work and the City has recent positive experience working with them on multiple City projects. The City's local preference policy would not change the outcome of bidding in this case.

No additional costs are expected for engineering or survey support as this project was designed in-house.

Traffic Control and Schedule

During construction, the Block 93 Alley and the eastern half of the City's parking lot immediately to the north will be closed to through traffic; however, local deliveries to businesses and trash pickup will be accommodated throughout construction. Once the alley is closed, the contractor will have 60 calendar days to complete the work and all work shall be substantially complete by October 13, 2023.

Contract Administration and Project Financials

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

The City budgeted $250k for this project out of the City's sewer fund. This places the project approximately $218k over this budget. This overage is primarily due to general cost escalation within the construction industry, high demand for earthwork contractors within the region, and an increase in the project's scope and technical challenges as the project's design investigations uncovered additional problem areas within the existing sewer collection system.

As needed, the project overage would come out of available fund balance within the City's sewer fund or would utilize a budget supplement if necessary. It should be noted that $200k of sewerline replacements were budgeted as part of the MoveMo Street Maintenance project that will remain unexpended. As the MoveMo scope was developed for 2023, it was discovered that sewerlines below the roads to be rebuilt were in favorable condition and did not warrant replacement, thus leaving these funds available.

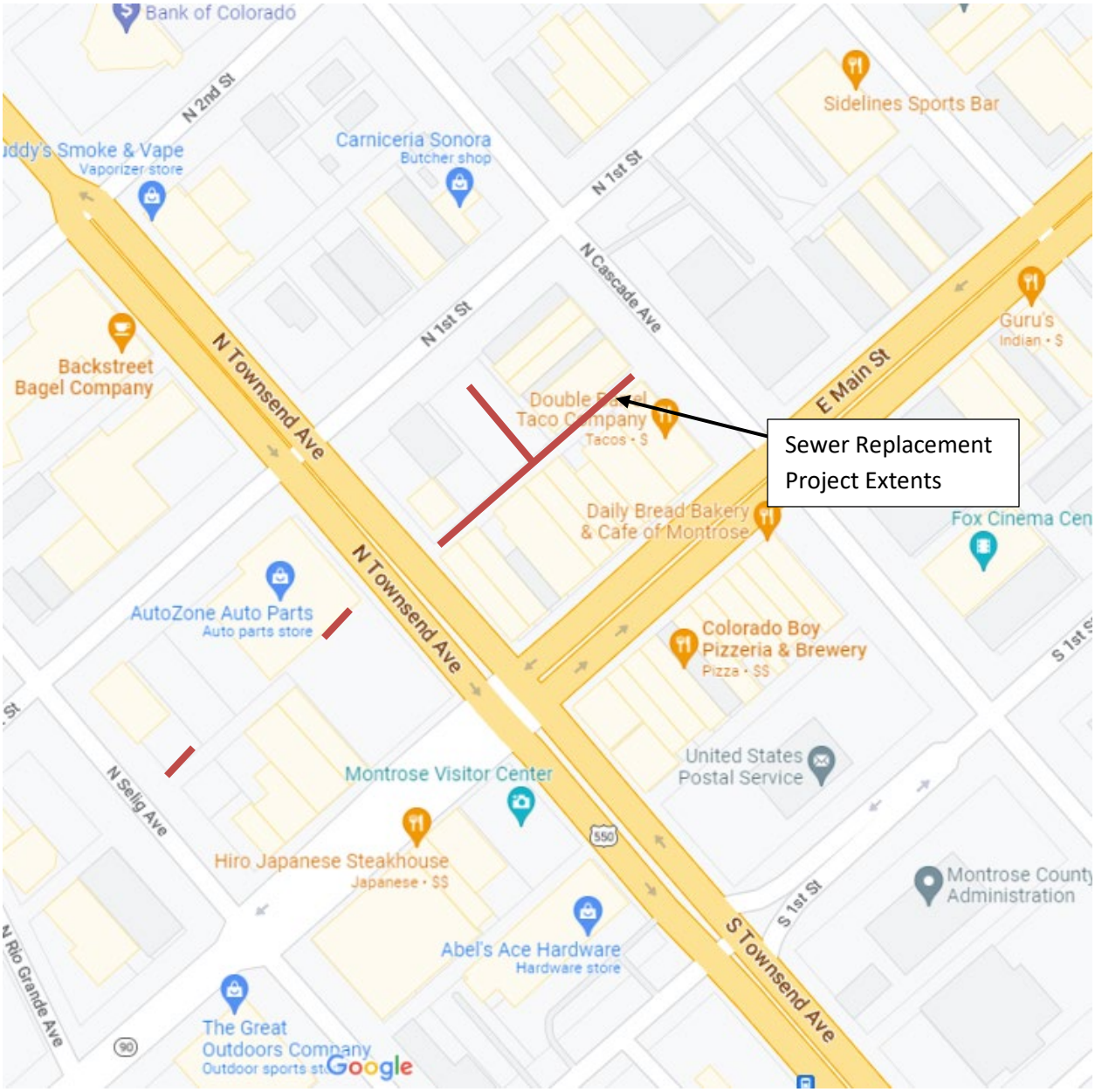


Figure 1: Block 93 Sewer Replacement Extents

PURCHASE RECOMMENDATION

TO: Honorable Mayor, and Montrose City Council
FROM: Jim Scheid, Public Works Director
Cc: William Bell, City Manager
Ann Morgenthaler, Deputy City Manager
Shani Wittenberg, Finance Director
DATE: April 17, 2023
Subject: Street Light Upgrade and DMEA MOU Authorization

Recommendation

Consider the authorization of an MOU with DMEA and the Streetlight Upgrade Project in the amount of $110,000.00.

Background

The City of Montrose currently has approximately 1900 streetlights on a variety of street types and most of these fixtures are a High Pressure Sodium (HPS) or Mercury Vapor (MV) fixture type. These fixtures were originally installed in the 1950s and 1960s and have been the primary fixture type for street lighting until 2010s when the LED fixtures were introduced to the market. Over the last 10 years, as the HPS or MV fixtures have failed or needed replacement they have been replaced with a Light-emitting Diode (LED) fixture. There have been about 500 of the fixtures changed out to an LED in the City of Montrose.
The City of Montrose is initiating an MOU with DMEA to systematically replace the remaining HPS and MV fixtures to LED in the Streetlight Upgrade Project, this is estimated to take about 4 years to complete.

There are a several reasons that motivate the initiation of this project. The following are some of those reasons.

- Financial Benefit - LED fixtures have a higher upfront cost to install but use less electricity to illuminate. The reduced cost of the electricity consumed would offset the cost of the upgraded fixture in about 2.3 years
- Energy Efficiency – the Envision 2040 Comprehensive Plan has goals regarding energy efficiency and conservation (Goal HE-7 Energy and Water Conservation)
- Dark Sky Principles – this project meets some of the principles of Dark Skies Responsible Outdoor Lighting with properly shielded lighting, utilizing light that has a purpose, and using lower light levels (lumens) where applicable.
- Street Network Organization – using light type and frequency to help identify street types.

City Staff have worked with DMEA staff to generate an MOU (attached below) that specifies the LED fixture type to be utilized based on street type and use. Upon authorization of this MOU DMEA would begin changing existing HPS and MV fixtures to an LED fixture up to the 2023 budgeted amount of $110,000.00. It is intended to continue this project over the next 3 years (4 years total) to complete the upgrade of all of the HPS and MV fixtures to LED. The continuation of this project will be dependent on funding available for future budget years.

Net Financial Impact

This project was included in the 2023 budget in the Streets Division Budget, STREET LIGHTS (100-5115-342-000) in the amount of $110,000.00.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MONTROSE AND DELTA-MONTROSE ELECTRIC ASSOCIATION

I. PARTIES

This Memorandum of Understanding is made by and between the **CITY OF MONTROSE**, a Colorado home rule municipal corporation ("City"), with a mailing address of P. O. Box 790, Montrose, Colorado 81402, and Delta-Montrose Electric Association, a Colorado cooperative electric association, ("DMEA") with a mailing address of 11925 6300 Road, Montrose, Colorado 81401are sometimes herein referred to individually and generically, as a "Party" and, collectively, as "Parties").

II. BACKGROUND AND PURPOSE OF MEMORANDUM OF UNDERSTANDING

The Parties currently have a Franchise agreement where DMEA is responsible for the transmission of electricity throughout Montrose. Pursuant to the agreement, DMEA owns and maintains all streetlights adjacent to the roadways of Montrose. DMEA is also responsible for any technological improvements when they are technically and economically feasible and are safe and beneficial to the City and its residents.

The City has interest in implementing a lighting plan, as displayed **Exhibit A**, over the course of a four-year project which will replace all existing Mercury Vapor (MV) and High Pressure Sodium (HPS) fixtures to Light-Emitting Diode (LED) fixtures. The purpose of the Memorandum of Understanding is to set a framework for the City to assist DMEA with the conversion and technological upgrade of streetlights from current fixtures to more cost effective and energy efficient LED fixtures. The City intends to assist in the cost of the technological upgrade.

This project is intended to be effective for four years but is subject to the terms and conditions provided herein.

III. CITY'S RESPONSIBILITIES

During the term of this Memorandum of Understanding:

(i) The City shall allocate $110,000 in 2023 to the purchase of LED fixtures in accordance with this MOU. If this amount is not expended, the City will put best efforts forth to make the funds available in 2024.

(ii) The City will put best efforts forth to allocate funds that will be sufficient to support each year of the project.

(iii) The City will reimburse DMEA for all LED fixtures that are replaced as a part of this MOU. LED fixtures that are currently in use are not part of this MOU. The City shall pay DMEA in accordance with **Exhibit B**. The City will not reimburse

DMEA for LED fixtures being changed as a normal course of operations for DMEA. DMEA will bear the cost of any fixtures that are not working.

(iv) The City shall provide a list of priority areas. The areas designated the highest priority should begin having their LED fixtures changed as soon as practicable.

IV. DMEA'S RESPONSIBILITIES

During the term of this Memorandum of Understanding:

(i) DMEA shall proactively change out all LED fixtures in streetlights owned by DMEA within the City limits in accordance with the lighting plan listed below in conjunction with **Exhibit A**. The four LED fixture types, with their corresponding classifications are as follows:

a. 72W – 4000 Kelvin fixtures for Major Arterials;
b. 38W – 4000 Kelvin fixtures for Minor Arterials; and
c. 38W – 3000 Kelvin fixtures for Collector Roads and Residential Streets.
    i. If there are any questions as to which classification a light falls under, DMEA shall contact the City to ask for clarification.

(ii) DMEA shall purchase, maintain, and own all LED fixtures that are subject to this MOU.

(iii) DMEA shall change out as many LED fixtures in accordance with this MOU as practicable without exceeding the budgeted amount for that given year. The budgeted amount for 2023 is $110,000.00.

(iv) DMEA shall provide the City documentation of any LED fixtures changed in accordance with this MOU with an invoice on a monthly basis for LED fixture type and price.

V. JOINT RESPONSIBILITIES

During the term of this Memorandum of Understanding, DMEA and the City shall jointly perform such other services in connection with the responsibilities set forth above, which are not specifically identified in this Memorandum of Understanding, and which they may determine to be necessary. The Parties agree that DMEA shall maintain ownership of any property acquired under this Agreement.

VI. EXPENSES

Each Party to this Memorandum of Understanding shall bear its own expenses except for the expense of the LED fixtures as described herein.

VII. TERM OF MEMORANDUM OF UNDERSTANDING

(i) This Memorandum of Understanding shall be effective as of the date of signature last made hereon, and shall remain in effect until the earlier to occur of: (a) entry by the Parties into a long-term equipment lease as described herein, or (b) termination of this Memorandum of Understanding as set forth herein.

(ii) Either Party may, in its sole and absolute discretion, and at any time, terminate this Memorandum of Understanding without any liability to the non-terminating Party, except as stated herein. Termination shall be accomplished by sending written notice pursuant to the Notice provisions of this Memorandum of Understanding. Termination may also be made as set forth in § IV (ii).

VIII. GOVERNING LAW

The laws of the State of Colorado (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Memorandum of Understanding, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

IX. INDEMNIFICATION

To the fullest extent permitted by law, DMEA agrees to indemnify and hold harmless the City, its officers and its employees, from and against all liability, claims and demands, on account of injury, loss, or damage, which arise out of or are in any manner connected with the services provided by the City to DMEA hereunder, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the City or any subcontractor of the City, or any officer, employee, representative, or agent of the City or of any subcontractor, or any other person for which City is responsible. DMEA shall investigate, handle, respond to, and provide defense for, and defend against any such liability, claims and demands, and bear all other costs and expenses related thereto, including court costs and attorney fees.

X. NOTICES

(i) *Requirement of a Writing; Permitted Methods of Delivery*. Each Party giving or making any notice, request, demand or other communication (each, a "Notice") pursuant to this Memorandum of Understanding shall give the Notice in writing and use one of the following methods of delivery, each of which for purposes of this Memorandum of Understanding is a writing: personal delivery, Registered or Certified Mail (in

each case, return receipt requested and postage prepaid), nationally recognized overnight courier, (with all fees prepaid), facsimile or e-mail.

(ii) *Addressees and Addresses.* Any Party giving a Notice shall address the Notice to the appropriate person at the receiving Party (the "Addressee") at the address listed on the first page of this Memorandum of Understanding or to another Addressee or another address as designated by a Party in a Notice pursuant to this Section.

(iii) *Effectiveness of a Notice.* Except as provided elsewhere in this Memorandum of Understanding, a Notice is effective only if the Party giving the Notice has complied with subsections (a) and (b) and if the Addressee has received the Notice.

XI. COUNTERPARTS

This Memorandum of Understanding may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Memorandum of Understanding to produce or account for more than one (1) such counterpart.

XII. WHOLE AGREEMENT

This Memorandum of Understanding represents the entire understanding of DMEA and the City in relation to the subject matter hereof, and supersedes any and all previous agreements, arrangements or discussions between them (whether written or oral) with respect of the subject matter hereof.

XIII. SEVERABILITY

If any provision of this Memorandum of Understanding is held invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Memorandum of Understanding to fulfill as closely as possible the original intents and purposes of this Memorandum of Understanding.

XIV. ASSIGNMENT

(i) *No Assignments.* Neither Party may assign any of its rights under this Memorandum of Understanding, except with the prior written consent of the other Party. That Party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or any other manner. For purposes of this Section, (i) a "change of control" is deemed an assignment of rights; and (ii) "merger" refers to any merger in which a Party participates, regardless of whether it is the surviving or disappearing corporation.

(ii) *No Delegations.* No Party may delegate any performance under this Memorandum of Understanding.

(iii) *Ramifications of Purported Assignment or Delegation.* Any purported assignment of rights or delegation of performance in violation of this Section is void.

(iv) This Memorandum of Understanding binds and benefits the Parties and their respective heirs, executors, administrators, legal representatives, and permitted successors and assigns.

XV. TABOR CLAUSE

The Parties agree that the City's payment of any monies, or provision of services requiring a financial commitment under this Agreement is subject to annual budget appropriations as required by provisions of the Taxpayers' Bill of Rights ("TABOR") contained in Article X, Section 20 of the Colorado Constitution, as amended. The Parties further agree that any failure to fund the obligations set forth herein as a result of TABOR-related monetary constraints shall not give rise to any legal or equitable cause of action whatsoever.

XVI. THIRD PARTY BENEFICIARIES

This Agreement does not and is not intended to confer any rights or remedies upon any person or entity, other than the signatories.

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Understanding to be executed by their respective officers thereunto duly authorized, all as of the date set forth beneath their respective signatures. This Memorandum of Understanding shall become effective as of the date of signature last made hereon.

Accepted and Agreed to by:

CITY OF MONTROSE, COLORADO

By: _____
Its: _____
Date: _____

Attest:

_____
Lisa DelPiccolo, City Clerk

DELTA-MONTROSE ELECTRIC ASSOCIATION

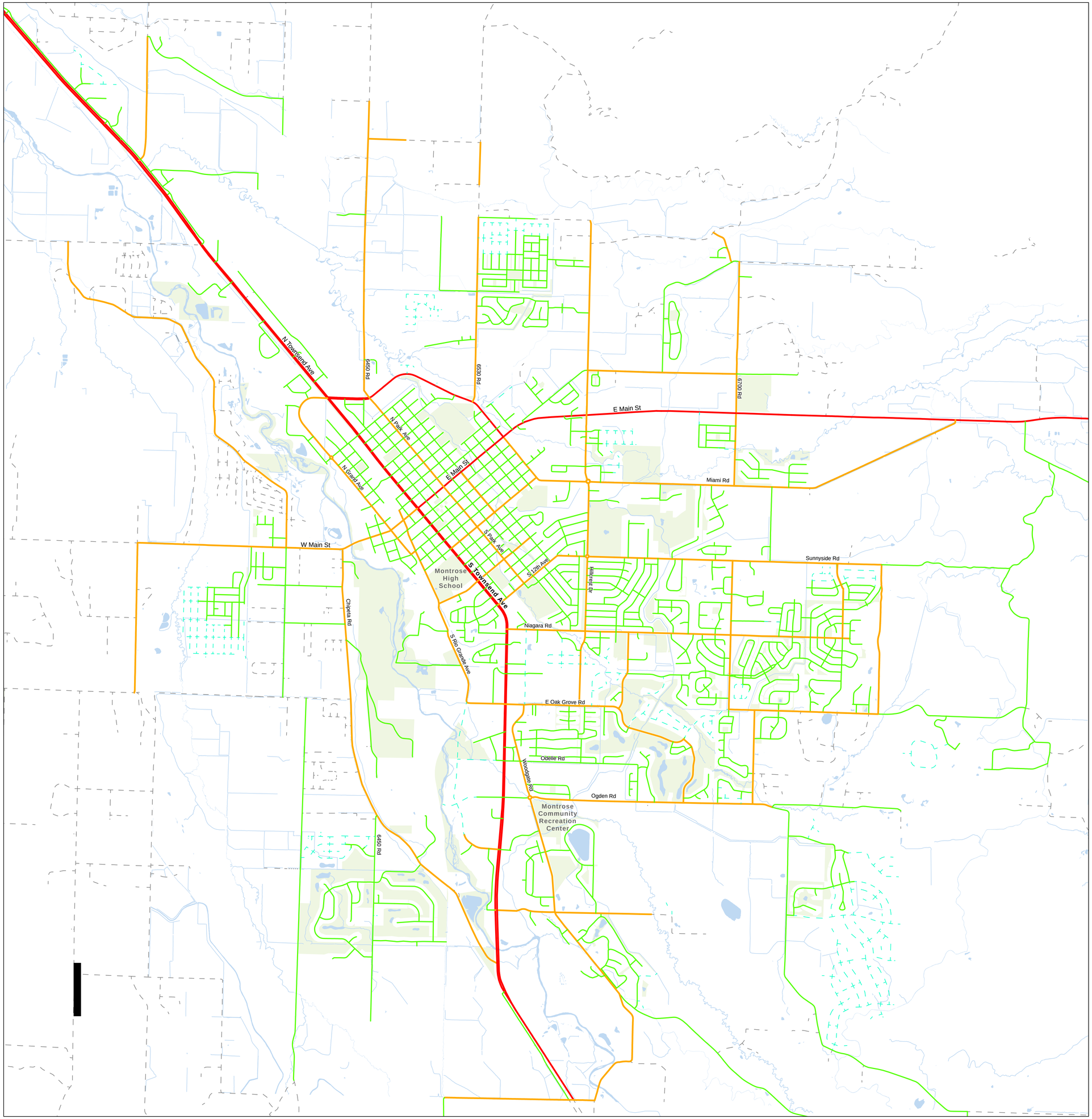
By: _____
Its: _____
Date: _____

Attest:

_____
_____, _____

EXHIBIT A

Street Lighting Plan 2023



Road Classification

- MAJOR ARTERIAL
- MINOR ARTERIAL
- RESIDENTIAL/COLLECTOR
- PROPOSED
- County Road
- Stream/River
- Pond/Lake
- Park

Major Arterial

72W - 4000K Bulb

Lane Width:	11 - 12 feet
Inside Shoulder Width:	0 feet
Outside Shoulder Width:	8 - 12 feet
AADT (Urban):	7,000 - 27,000
Divided/undivided:	Divided/undivided
Access:	Partially or uncontrolled
Urban Speed Limit (mph):	45 - 55

Minor Arterial

38W - 4000K Bulb

Lane Width:	10 - 12 feet
Inside Shoulder Width:	0 feet
Outside Shoulder Width:	4 - 8 feet
AADT (Urban):	3,000 - 14,000
Divided/undivided:	Undivided
Access:	Uncontrolled
Urban Speed Limit (mph):	30 - 45

Residential/ Collector

38W - 3000K Bulb

Lane Width:	8 - 11 feet
Inside Shoulder Width:	0 feet
Outside Shoulder Width:	1 - 2 feet
AADT (Urban):	80- 6300
Divided/undivided:	Undivided
Access:	Uncontrolled
Urban Speed Limit (mph):	<30 - 40

Residential Decorative

60W - 2200K Bulb

Lane Width:	10 - 11 feet
Inside Shoulder Width:	0 feet
Outside Shoulder Width:	1 - 4 feet
AADT (Urban):	1,100 - 6,300
Divided/undivided:	Undivided
Access:	Uncontrolled
Urban Speed Limit (mph):	30 - 40

MONTROSE • COLORADO

CITY OF MONTROSE GEOGRAPHIC INFORMATION SYSTEMS

0 0.5 1 1.5 2

Miles

PURCHASE RECOMMENDATION

TO: Honorable Mayor, and Montrose City Council
FROM: Jim Scheid, Public Works Director
Cc: William Bell, City Manager
Ann Morgenthaler, Deputy City Manager
Shani Wittenberg, Finance Director
DATE: April 17, 2023
Subject: MPSC Solar Panels Add Alternate Award Recommendation

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Recommendation

Consider the authorization of a contract with Atlasta Solar for the installation of a solar panel system at the Montrose Public Safety Complex in the amount of $205,506.00.

Background

As the construction process of the Montrose Public Safety Complex (MPSC) concludes, City Staff is able to identify and recommend add alternates that may have been passed on earlier in the construction project. This is the case with the addition of a solar panel system.

The solar panel system was an add alternate option in 2021 for the MPSC project. At that time SHAW construction received bids for the add alternate and Atlasta Solar of Grand Junction, CO was selected as the contractor to perform this work on the MPSC if the add alternate was accepted. The add alternate was not accepted at that time due to the unstable market and the project risks that were still present at that time. The addition of solar panels is an item that is easy to add at the end of the project without additional expense.

Since the project is ending and the contract with SHAW Construction is being closed out, City Staff have utilized pricing provided as part of the project to contract directly with Atlasta Solar and manage as a separate contract from the SHAW contract.

As part of the pricing options provided by Atlasta, there are several options available for the size and cost of the solar panels. The option recommended is the option that would cover all 4 of the covered parking structures with solar panels. The option does exist to cover 1, 2, 3 or all 4 of the structures with solar panels. The more panels that are installed the higher the output and efficiency of the system. This is why the maximum amount of coverage is recommended.

Net Financial Impact

In August of 2021, the City Council authorized a total of $17.8 million for the SHAW Construction contract and the owner's contingency. As the project comes to a conclusion there is approximately $350,000.00 remaining in the owner's contingency. This amount remains in the Public Safety Fund as a part of the original authorization but was not budgeted to be expended in 2023. The recommended authorization of $205,506.00 does include a 5% contingency should there be unforeseen expenses with the installation of the solar panels.

SANITARY SEWER RATE STUDY

CITY COUNCIL REGULAR SESSION

May 2, 2023

To: City Council

From: David Bries, Utilities Manager

CC: William E. Bell, City Manager
Shani Wittenberg, Finance Director

Subject: Recommendation for a Sanitary Sewer rate study with Carollo Engineers

RECOMMENDATION

Consideration of the contract with Carollo Engineers to perform a sanitary sewer cost of service analysis and develop an updated rate structure to fairly recover the wastewater treatment costs from various types of customers in an amount not to exceed $70,000.00.

BACKGROUND

The current sanitary sewer rate structure was developed approximately 20 years ago and is in need of updating based on regulatory changes, changes in customer types and billing system capabilities.

Carollo Engineers have performed several projects at the wastewater treatment plant to assist staff in operating it to meet the regulatory requirements, identify aging components that are near the end of their life and to develop a capital improvement plan to meet upcoming regulatory changes. They have a good understanding of the cost centers for the wastewater treatment plant. Additionally they were the selected firm for the Storm Sewer Utility feasibility study.

The City of Montrose the procurement manual doesn't require a competitive bid process for professional services and staff did not request bids or proposals for this study.

Carollo has estimated the cost of the study to be $59,946. The proposed not to exceed cost would provide an additional $10,000 if there is further work to refine the rates to meet staff's expectations and to efficiently work with our billing system.

NET FINANCIAL IMPACT

Funding for a Sanitary sewer rate study is included in the 2023 Budget. The cost are proposed to be spread between the Sewer Collection ($40,000), Wastewater Treatment ($45,000) and Industrial Pretreatment ($15,000) programs.

Adequate funding is available.