



REGULAR CITY COUNCIL MEETING AGENDA
Tuesday, May 17, 2022 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 and the meeting can be viewed via livestream at <https://www.cityofmontrose.org/759/Live-Meetings-Viewer>.

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 Dave Frank
 - 2) The Pledge of Allegiance
 - 3) Roll call by the City Clerk
 - 4) Changes to the agenda including additions and deletions
 - 5) Mental Health Month Proclamation 4
 - 6) Motorcycle Awareness Month Proclamation 5
 - 7) 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.*



8) APPROVAL OF MINUTES (5 minutes)

City Council consideration of the minutes of the May 3, 2022 regular City Council meeting.
Staff: City Clerk Lisa DelPiccolo 6-10

Action: Consider making a motion to approve the minutes of the May 3, 2022 regular City Council meeting as presented.

9) YOUTH CITY COUNCIL REPORT TO CITY COUNCIL (15 minutes)

The Montrose Youth City Council will make a regularly scheduled report to City Council.
Staff: Youth City Council Coordinators Mikayla Unruh and Kailey Rhoten

10) HOTEL AND RESTAURANT LIQUOR LICENSE TRANSFER APPLICATION
(10 minutes)

City Council consideration of the transfer of the Hotel and Restaurant liquor license at 1032 6450 Road from Kinikin Processing LLC, doing business as Kinikin Processing LLC, to Kinikin Processing Company LLC, doing business as Kinikin Processing Company LLC, for consumption on the licensed premises. *Staff: Assistant City Attorney Chris Dowsey 11-15*

Action: Hold a hearing. Consider making a motion to approve the transfer of the Hotel and Restaurant liquor license at 1032 6450 Road from Kinikin Processing LLC, doing business as Kinikin Processing LLC, to Kinikin Processing Company LLC, doing business as Kinikin Processing Company LLC.

11) ORDINANCE 2590 - FIRST READING (15 minutes)

City Council consideration of Ordinance 2590 on first reading, an Ordinance of the City of Montrose, Colorado, amending Title 5 Chapter 15 Sections 2 and 7, regarding a sales tax exemption for a fee the State of Colorado is imposing on carryout bags. *Staff: Assistant City Attorney Chris Dowsey 16-49*

Action: Hold a hearing. Consider making a motion to pass Ordinance 2590 on first reading.

12) ORDINANCE 2589 - SECOND READING (15 minutes)

City Council consideration of Ordinance 2589 on second reading, an Ordinance of the City of Montrose, Colorado, amending Title 4 Chapter 4 Section 24, regarding Planned Development (PD) regulations to clarify the process, consent, and public notice requirements for applications to amend an existing planned development plan. *Staff: Deputy City Manager Ann Morgenthaler 50-60*

Action: Hold a hearing. Consider making a motion to adopt Ordinance 2589 on second reading as presented.

13) ORDINANCE 2588 - FIRST READING (10 minutes)

City Council consideration of Ordinance 2588 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. *Staff: City Engineer Scott Murphy* **61-63**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2588 on first reading as presented.

14) MOVING MONTROSE FORWARD 2022 STREET MAINTENANCE CONTRACT AWARD (15 minutes)

City Council consideration of the award of a construction contract to Mountain Valley Contracting in the amount of \$1,430,000.00 for completion of the Moving Montrose Forward 2022 Contracted Street Maintenance Project. *Staff: City Engineer Scott Murphy* **64-68**

Action: Accept public comment. Consider making a motion to approve the award of a construction contract to Mountain Valley Contracting in the amount of \$1,430,000.00 for completion of the Moving Montrose Forward 2022 Contract Street Maintenance Project as presented.

15) STAFF REPORTS

- A) Sales, Use, and Excise Tax Report (5 minutes)
Staff: Finance Director Shani Wittenberg **69-74**
- B) First Quarter Budget Review (5 minutes)
Staff: Finance Director Shani Wittenberg **75-82**

16) YOUTH CITY COUNCIL COMMENTS17) CITY COUNCIL COMMENTS18) MOTION TO ADJOURN



PROCLAMATION

Mental Health Month

May 2022

WHEREAS, mental health is essential to everyone's overall health and well-being; and

WHEREAS, all Americans face challenges in life that can impact their mental health; and

WHEREAS, prevention is an effective way to reduce the burden of mental health conditions; and

WHEREAS, there are practical tools that all people can use to improve their mental health and increase resiliency; and

WHEREAS, mental health conditions are real and prevalent in our nation; and

WHEREAS, with effective treatment, those individuals with mental health conditions can recover and lead full, productive lives; and

WHEREAS, each business, school, government agency, health care provider, organization and citizen share the burden of mental health problems and has a responsibility to promote mental wellness and support prevention and treatment efforts.

NOW, THEREFORE, we, the City Council of the City of Montrose, Colorado, do hereby proclaim the month of May 2022 as

MENTAL HEALTH MONTH

in the City of Montrose and call upon our citizens, government agencies, public and private institutions, businesses and schools to recommit our city to increasing awareness and understanding of mental illness, and the need for appropriate and accessible services for all people with mental illnesses.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Montrose, this 17th day of May, 2022.

David Frank, Mayor
City of Montrose



PROCLAMATION

Motorcycle Awareness Month

May 2022

WHEREAS, organizations such as the Gold Wing Road Riders Association (GWRRA) Motorist Awareness Program of Colorado continually promote motorcycle safety, education, and awareness programs to the general public, and to the motorist community of Colorado; and

WHEREAS, motorcycle riding is a popular form of recreation and transportation for thousands of people across the state and nation; and

WHEREAS, it is crucial that citizens of our city and state be aware of motorcycles on the roadways and recognize the importance of motorcycle safety; and

WHEREAS, state and motorcycle organizations across this country are conducting a variety of activities to promote motorist awareness and safely sharing the road with motorcycles throughout the month of May, and will be reminding riders to be more visible to others; and

WHEREAS, the motorcyclists of Colorado have contributed countless volunteer hours to their communities; and

WHEREAS, all motorists should join GWRRA's Motorist Awareness Program of Colorado in actively promoting the safe operation of motorcycles as well as promoting motorcycle safety, education, and awareness.

NOW, THEREFORE, we, the City Council of the City of Montrose, Colorado, do hereby proclaim May 2022 as

MOTORCYCLE AWARENESS MONTH

in the City of Montrose and encourage all residents to join us in supporting motorcycle awareness and safe motoring for all.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Montrose, this 17th day of May, 2022.

David Frank, Mayor
City of Montrose

A regular meeting of the Montrose City Council was held on Tuesday, May 3, 2022 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, Grace Hotsenpiller, Bill Bell, Ann Morgenthauer, Greg Story, Lisa DelPiccolo, Ross Valdez, Tim Cox, Matt Smith, Blaine Hall, Shani Wittenberg, Chris Dowsey, Jim Scheid, Matt Magliaro

GUESTS: First responders from the Montrose Police Department, Montrose Fire Department and Montrose County Sheriff's Office, Steven Ball, Xochitl Zamora, Monica Zamora, Steve Stevenson, Janet Eckerdt

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

Mayor Pro Tem Barbara Bynum added a First Responders Month proclamation to the agenda as Item 4A.

FIRST RESPONDERS MONTH PROCLAMATION

Mayor Dave Frank, Mayor Pro Tem Barbara Bynum, and the Montrose City Council proclaimed the month of May 2022 as First Responders Month in the City of Montrose. The proclamation was presented to first responders from the Montrose Police Department, Montrose Fire Department, and Montrose County Sheriff's Office.

CALL FOR PUBLIC COMMENT

No comments were received.

APPROVAL OF MINUTES

City Council considered the minutes of the April 18, 2022 special City Council meeting and the April 19, 2022 regular City Council meeting.

A motion was made by Barbara Bynum, seconded by Doug Glaspell, to approve the minutes of the April 18, 2022 special City Council meeting and the April 19, 2022 regular City Council meeting as presented. All voted yes. Motion passed.

PLANNING COMMISSION APPOINTMENT

City Council considered the appointment of Planning Commission Alternate Steven Ball as a regular member of the City of Montrose Planning Commission

City Clerk Lisa DelPiccolo reported that a vacancy exists on the City of Montrose Planning Commission, and Steven Ball has served as an alternate since September 2021. Ms. DelPiccolo stated that in similar circumstances, the City Council has appointed the alternate as a full voting member and then recruited an alternate. Mr. Ball was present to answer questions from City Council.

A motion was made by J. David Reed, seconded by Ed Ulibarri, to appoint Planning Commission Alternate Steven Ball as a regular member of the City of Montrose Planning Commission. All others voted yes. Motion passed.

NEW HOTEL AND RESTAURANT LIQUOR LICENSE APPLICATION

City Council considered a new Hotel and Restaurant liquor license at 1343 Mayfly Drive for Trattoria Di Sofia, LLC, doing business as Trattoria Di Sofia, for consumption on the licensed premises. A hearing was held.

Assistant City Attorney Chris Dowsey reported that the application is for a new Hotel and Restaurant liquor license, and a hearing will be held. Mr. Dowsey stated that the application is in order, the fees have been paid, and staff review found no issues that would prevent the approval of the application.

Applicant Xochitl Zamora introduced herself and her daughter, Monica, and said that she and her husband intend to relocate their restaurant to the Colorado Outdoors development.

Ms. Zamora said that their small family-owned Italian restaurant opened in 2013, and this relocation will allow them to expand the business to add a full bar, a pizza oven, and outdoor seating. Ms. Zamora stated that they held a Beer and Wine license at the previous location and had no infractions. Ms. Zamora stated that she has attended alcohol server training, and all employees will be required to complete the training.

Mayor Dave Frank opened the hearing.

Public comment was accepted. No comments were received.

Mayor Frank closed the hearing.

A motion was made by Ed Ulibarri, seconded by Barbara Bynum, to approve a new Hotel and Restaurant liquor license at 1343 Mayfly Drive for Trattoria Di Sofia, LLC, doing business as Trattoria Di Sofia, for consumption on the licensed premises. All voted yes. Motion passed.

RESOLUTION 2022-09

City Council considered Resolution 2022-09 authorizing assignment to the Colorado Housing and Finance Authority of a private activity bond allocation of the City of Montrose pursuant to the Colorado Private Activity Bond Ceiling Allocation Act.

Citizen Engagement Specialist Ross Valdez reported that for the past four years the City of Montrose has assigned its private activity bond allocation to the Colorado Housing and Finance Authority (CHFA) which puts the allocation to use within the community. Mr. Valdez stated that the City's allocation for 2022 is \$1,125,667.00 and reviewed previous projects completed as a result of PAB allocations to CHFA. Mr. Valdez recommended adoption of Resolution 2022-09 stating that CHFA has been a good steward of these resources in the past.

Public comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Barbara Bynum, to adopt Resolution 2022-09 as presented. All present voted yes. Motion passed.

RESOLUTION 2022-10

City Council considered Resolution 2022-10 setting June 7, 2022 as the hearing date for the 6700 DeJulio Addition annexation.

City Council Ed Ulibarri recused himself stating that he has no financial interest in the transaction, but he is related to the applicants. Mr. Ulibarri left the meeting at 6:23 p.m.

Deputy City Manager Ann Morgenthaler reviewed the annexation schedule and the location of the 9.54 acres north of Sunnyside Road, south of Miami Road, west of 6720 Road, east of the Columbine East Subdivision, and directly in line with 6700 Road. Ms. Morgenthaler stated that the parcel is within the Urban Growth Boundary, is within City of Montrose water service area and is surrounded by City limits. Annexation will allow for future residential development compatible with adjacent parcels and will allow for dedication of the 6700 Road Extension right of way.

Ms. Morgenthaler stated a variation is included in the annexation agreement to allow a minimum lot depth of 90 feet. The proposed initial zoning is R1-A, Large Estate District, which is consistent with adjacent parcels and is intended to provide large single family lots with a semi-rural environment. Ms. Morgenthaler stated that the proposal is consistent with elements of the Comprehensive Plan, most notably the Transportation Plan.

Public Comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Barbara Bynum, to adopt Resolution 2022-10 as presented. All present voted yes. Motion passed.

Mr. Ulibarri rejoined the meeting at 6:31 p.m.

ORDINANCE 2589 - FIRST READING

City Council considered Ordinance 2589 on first reading, an Ordinance of the City of Montrose, Colorado, amending Title 4 Chapter 4 Section 24, regarding Planned Development (PD) regulations to clarify the process, consent, and public notice requirements for applications to amend an existing planned development plan. A hearing was held.

Deputy City Manager Ann Morgenthaler reported that the proposed Municipal Code amendment would improve the process for amendments to existing planned developments. Ms. Morgenthaler said that currently an amendment to a PD requires consent of all owners within the PD. Adoption of Ordinance 2589 would require consent of owners within the portion amended. All owners within the PD would receive notice, even those beyond the 100-foot limit. Ms. Morgenthaler stated that the current Code provision is no longer consistent with the Comprehensive Plan and does not meet the needs of developers and the community.

Mayor Dave Frank opened the hearing.

Public Comment was accepted. No comments were received.

Mayor Frank closed the hearing.

A motion was made by Barbara Bynum, seconded by J. David Reed, to pass Ordinance 2589 on first reading as presented. All voted yes. Motion passed.

BEAR CREEK SUBDIVISION FILING NO. 7 FINAL PLAT

City Council considered the Bear Creek Subdivision Filing No. 7 Final Plat to create 32 new residential lots and dedicate rights of way and/or easements.

Planner I William Reis reviewed the location of the 61.13 acres south of Lincoln Road and east of 6300 Road. The property consists of 4.34 acres of residential lots, 2.27 acres of right of way, 1.16 acres of open space and 53.36 acres in an outlot for future development. Mr. Reis stated that the Final Plat creates 32 residential lots within an R-5, Low Density/Manufactured Housing District. Parts of the outlot are within an R-3A, Medium High Density District. Mr. Reis said that the most recent preliminary plat was approved in September 2021.

Mr. Reis recommended approval of the Final Plat with the standard condition.

Public Comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Barbara Bynum, to approve the Bear Creek Subdivision Filing No. 7 Final Plat 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. All voted yes. Motion passed

STAFF REPORTS

Police Department Update: Police Chief Blaine Hall reported that the Latinx Citizens Academy has concluded with 21 participants attending the sessions. Chief Hall recognized Community Engagement Specialist Ross Valdez for contributing to the success of the program. Chief Hall also provided an update on the Public Safety Complex construction project. Community tours will be offered in August.

YOUTH CITY COUNCIL COMMENTS

Youth City Council Representative Grace Hotsenpiller reported that Youth Councilors recently conducted a street clean-up project. Ms. Hotsenpiller said the Youth City Council is also continuing to work on organizing a movie night for high school students, possibly at the Star Drive-In Theater.

CITY COUNCIL COMMENTS

Mayor Pro Tem Barbara Bynum asked City Manager Bill Bell to give an update on the Montrose Mudder event on May 15. Mr. Bell reported that the High School Interact Rotary Club partnered with the two Montrose Rotary Clubs and the Office of Business and Tourism to organize the first annual 5K and obstacle course mud run event. The race will finish at the Montrose Rotary Amphitheater with food trucks and live music. Mr. Bell announced that the Partners Program is also hosting a fundraising event at the Amphitheater on May 7.

Mayor Dave Frank invited the community to a celebration in Centennial Plaza on May 5 acknowledging receipt of the Governor's Award for Downtown Excellence for Chow Down Pet Supplies and the Block 64 improvements.

MOTION TO ADJOURN

At 6:50 p.m., a motion was made by J. David Reed to adjourn the meeting with no further action taken.

ATTEST:

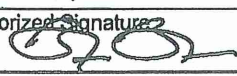
David Frank, Mayor

Lisa DelPiccolo, City Clerk

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Name Kinikin Processing Company, LLC	Type of License Hotel/Restaurant (city)	Account Number		
7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years?		Yes ☐ No ☒		
8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):				
a. Been denied an alcohol beverage license?		☐ ☒		
b. Had an alcohol beverage license suspended or revoked?		☐ ☒		
c. Had interest in another entity that had an alcohol beverage license suspended or revoked?		☐ ☒		
If you answered yes to 8a, b or c, explain in detail on a separate sheet.				
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.		☐ ☒		
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?		☐ ☒		
Waiver by local ordinance? ☐ ☐				
Other: _____				
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		☐ ☐ N/A		
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		☐ ☐ N/A		
13 a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016?		N/A ☐ ☐		
13 b. Are you a Colorado resident? Kinikin Processing Company, LLC is a Colorado limited liability company		☒ ☐		
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. See attachment		☒ ☐		
15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership , lease or other arrangement?		☒ ☐		
☐ Ownership ☒ Lease ☐ Other (Explain in Detail) _____				
a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:				
Landlord Kinikin Real Estate, LLC	Tenant Kinikin Processing Company, LLC	Expires 1/31/2032		
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16.		☐ ☒		
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".				
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary. See attachment				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.				
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises: Has a local ordinance or resolution authorizing optional premises been adopted?				☐ ☒
Number of additional Optional Premise areas requested. (See license fee chart)				☐
18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.				
19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:				
a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise?				N/A ☐ ☐
If "yes" a copy of license must be attached.				

Name Kinikin Processing Company, LLC	Type of License Hotel/Restaurant (city)	Account Number		
20. Club Liquor License applicants answer the following: Attach a copy of applicable documentation Yes No				
a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?		☐ ☐		
b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?		☐ ☐		
c. How long has the club been incorporated?		N/A		
d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above?		☐ ☐		
21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following: Yes No				
a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached)		N/A ☐ ☐		
22. Campus Liquor Complex applicants answer the following: Yes No				
a. Is the applicant an institution of higher education?		N/A ☐ ☐		
b. Is the applicant a person who contracts with the institution of higher education to provide food services?		☐ ☐		
If "yes" please provide a copy of the contract with the institution of higher education to provide food services.				
23. For all on-premises applicants. a. Hotel and Restaurant, Lodging and Entertainment, Tavern License and Campus Liquor Complex, the Registered Manager must also submit an Individual History Record - DR 8404-I and fingerprint submitted to approved State Vendor through the Vendor's website. See application checklist, Section IV, for details. b. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit a Manager Permit Application - DR 8000 and fingerprints.				
Last Name of Manager Prock	First Name of Manager Jennifer			
24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No		☐ ☒		
25. Related Facility - Campus Liquor Complex applicants answer the following: Yes No		☐ ☐		
a. Is the related facility located within the boundaries of the Campus Liquor Complex?				
If yes, please provide a map of the geographical location within the Campus Liquor Complex.		N/A		
If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.				
b. Designated Manager for Related Facility- Campus Liquor Complex				
Last Name of Manager	First Name of Manager			
26. Tax Information. Yes No		☐ ☒		
a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business?		☐ ☒		
b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.?		☐ ☒		
27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.				
Name	Home Address, City & State	DOB	Position	%Owned
See attachment				
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
** If applicant is owned 100% by a parent company, please list the designated principal officer on above. ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable) ** If total ownership percentage disclosed here does not total 100%, applicant must check this box: ☒ Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.				

Name Kinikin Processing Company, LLC		Type of License Hotel/Restaurant (city)		Account Number	
Oath Of Applicant					
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.					
Authorized Signature 		Printed Name and Title Bradley Berger, Manager		Date 2/10/22	
Report and Approval of Local Licensing Authority (City/County)					
Date application filed with local authority April 11, 2022		Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application) May 17, 2022			
The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been:					
☒ Fingerprinted ☒ Subject to background investigation, including NCIC/CCIC check for outstanding warrants					
That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license					
(Check One)					
☐ Date of inspection or anticipated date _____ ☒ Will conduct inspection upon approval of state licensing authority					
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,000?					Yes No ☐ ☒
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,000?					☐ ☒
NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.					
☐ Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?					☐ ☒
The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.					
Local Licensing Authority for			Telephone Number		☐ Town, City ☐ County
Signature	Print	Title		Date	
Signature	Print	Title		Date	

Kinikin Processing Company, LLC

Colorado Liquor Retail License Application (Form DR 8404)

Further response to the below numbered questions:

14. Has a liquor or beer license ever been issued to the applicant (including any of the members or manager if a Limited Liability Company)? **Yes**

If yes, identify the name of the business and list any current financial interest in said business including any loans to or from a licensee:

Next Gen Kulinary-Denver, LLC (dba Ya Ya's Euro Bistro) (no financial interest)

Next Gen BBQ-Denver, LLC (dba Burnt End BBQ) (no financial interest)

Elevated Q LLC (dba Elevated Q) (no financial interest)

Laws Chophouse LLC (dba Law's Chophouse) (no financial interest)

16. Who, besides the owners listed in this application will loan or give money, inventory, furniture, or equipment to or for use in this business; or who will receive money from this business:

No one other than the owners will loan or give money, inventory, furniture, or equipment to or for use in this business or will receive money from this business.

27. Members and Managers of Kinikin Processing Company, LLC:

Name	Home Address, City & State	DOB	Position	% Owned
Kompass Kapital Ventures, LLC	9800 Metcalf Ave, 5 th Floor, Overland Park, KS 66212	n/a	Member	70
Clubhouse Capital, LLC	15508 Oakmont Street, Overland Park, KS 66221	n/a	Member	10
Kinikin Processing, LLC (owned 50% by Zachary Prock and 50% by Jennifer Prock)	72015 Kinikin Rd, Montrose, CO 81401	n/a	Member	20
Jayson A. Kuti	16620 Eden Bridge, Belton, Missouri 64012		Manager	0
Bradley Berger	15508 Oakmont Street, Overland Park, KS 66221		Manager	0
Zachary Prock	72015 Kinikin Rd, Montrose, CO 81401		Manager	0



CITY OF MONTROSE

MEMO

TO: Honorable Mayor and Members of City Council
FROM: Chris Dowsey, Assistant City Attorney
DATE: 05/02/2022
RE: Sales Tax Exemption on Plastic Bag Fee

Action

Add the “carryout bag fee” that will be implemented by the State of Colorado through HB21-1162 to the list of sales tax exemptions.

Background

Generally, this is a ban on the use of plastic bags for certain stores, while placing a fee on single use, non-reusable bags from the stores affected by the Bill. This extends to one-time use paper and plastic bags. Additionally, polystyrene food containers will be banned as well, the fee will not be applicable to these containers. The onus is on the municipalities to implement, enforce, and administer these fees.

Beginning January 1, 2023, there will be a minimum of a ten cent fee (each municipality may raise the fee associated per bag with a minimum of ten cents) per single use bag given to a consumer at the affected stores. This includes plastic and recycled paper bags. The fee will be split between the business (40%) charging and collecting the fee and the municipality (60%).

Stores subject to this fee must provide on the customer’s receipt, the number of bags provided as part of the transaction. Stores must conspicuously display a sign alerting customers about the carryout bag fee. Stores may not refund any portion of money collected as part of the carryout bag fee collected from customers.

This affects any establishment at which carryout bags are traditionally provided to customers; inclusive of restaurants, groceries, dry cleaner, etc. There is a “small store”

exemption; a “small store” is defined as “a store that operates solely in Colorado, has three or fewer locations in the state, and is not part of a franchise, corporation, or partnership that has physical locations outside of Colorado.” Additionally, if the consumer is in Federal or State food assistance, they are not subject to the ten cent fee.

We are able to establish penalties

Important dates:

January 1, 2023: fee goes into effect.

January 1, 2024: retail stores will no longer be allowed to purchase new plastic bags and may only use what they have in inventory for the next six months; polystyrene food containers may no longer be purchased and businesses may only use what they have in inventory until depleted.

June 1, 2024: retail stores may no longer use plastic bags. Restaurants may continue using plastic bags after this date.

April 1, 2024: remittance begins, the remittance is due quarterly.

July 1, 2024: local governments may enact, implement, or enforce any ordinance, resolution, or rule provision that is as, or more, stringent than the State’s laws.

Sec. 5-15-2. Words and phrases defined.

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

Agricultural producer means a person regularly engaged in the business of using land for the production of commercial crops or commercial livestock. The term "agricultural producer" includes farmers, market gardeners, commercial fruit growers, livestock breeders, dairymen, poultrymen, and other persons similarly engaged, but does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for that person's own consumption or casual sale.

Aircraft means a device that is used or intended to be used for flight in the air.

Aircraft part means any tangible personal property that is intended to be permanently affixed or attached as a component part of an aircraft.

Aircraft simulator means a flight simulator training device (FSTD) as defined in Part I of title 14 of the Code of Federal Regulations that is qualified in accordance with Part 60 of title 14 of the Code of Federal Regulations for use in a Federal Aviation Administration Approved Flight Training Program.

Aircraft simulator part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of an aircraft, and which will also function when it is permanently affixed or attached as a component part of an aircraft simulator.

Airline company means any operator who engages in the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail, or any aircraft operator who operates regularly between two or more points and publishes a flight schedule. Airline company shall not include operators whose aircraft are all certified for a gross takeoff weight of 12,500 pounds or less and who do not engage in scheduled service or mail carriage service.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

Automotive vehicle means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. The term "automotive vehicle" includes, but is not limited to, motor vehicles, trailers, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Business means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

Candy means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

Carrier access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Carryout bag means a bag that is furnished to a customer at a store or retail food establishment at the point of sale for use by the customer to transport or carry purchased items. Carryout bag does not include:

- (1) A bag made of paper when the paper has a basis weight of thirty pounds or less;
- (2) A bag that a pharmacy provides a customer purchasing prescription medication;
- (3) A bag that a customer uses inside a store to:

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- a. Package loose or bulk items, such as fruits, vegetable, nuts, grains, candy, or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;
 - b. Contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items;
or
 - c. Contain unwrapped prepared foods or bakery goods; or

(4) A laundry, dry cleaning, or garment bag.

Charitable organization means any entity which:

- (1) Has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code; and
- (2) Is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

City or town means the municipality of the City of Montrose.

Coin means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this state, the United States or any foreign nation.

Coin-operated device means any device operated by coins or currency or any substitute therefor.

Collection costs shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

Commercial packaging materials means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. The term "commercial packaging materials" does not include commercial shipping materials.

Commercial shipping materials means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. The term "commercial shipping materials" include but are not limited to, containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

Community organization means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as:

- (1) No part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and
- (3) Which does not participate in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

Construction materials means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including

public and private improvements. The term "construction materials" includes, but is not limited to, such things as, asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms or other items which do not remain as an integral and inseparable part of a completed structure or project, are not construction materials.

Consumer means any person in the City who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the City.

Contract auditor means a duly authorized agent designated by the taxing authority and qualified to conduct tax audits on behalf of and pursuant to an agreement with the municipality.

Contractor means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For the purposes of this definition, the term "contractor" also includes subcontractor.

Cover charge means a charge paid to a club or similar entertainment establishment which may or may not entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

Data processing equipment means any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information.

Digital product means an electronic product, including, but not limited to, the following:

Digital audio works means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For the purposes of the definition of the term "digital audio works," the term "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

Digital audio-visual works means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

Digital books means works that are generally recognized in the ordinary and usual sense as books.

Digital images means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as photographs, logos, cartoons, or drawings.

Distribution means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shopper's guides, catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

Dual residency means those situations, including, but not limited to, where a person maintains a residence, place of business or business presence, both within and outside the City. A person shall be deemed to have established a legitimate residence, place of business or business presence outside of the City for the purposes of dual residency if the person has a physical structure owned, leased or rented by such person which is designated by street number or road location outside of the City, has within it a telephone in the name of such person and conducts business operations on a regular basis at such location in a manner that includes the type of business activities for which the business (person), as defined in this Code, is organized.

Dwelling unit means a building or any portion of a building designed for occupancy as complete, independent living quarters for one or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

Economic nexus means the connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City, and: (1) In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended; or (2) In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.

Engaged in business in the City means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption, within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:

- (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- (2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction;
- (5) Retailor or vendor in the state of Colorado that makes more than one delivery into the taxing jurisdiction within a 12-month period; or
- (6) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in 5-15-2.

Factory built housing means a manufactured home or modular home.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Farm equipment means any farm tractor, as defined in C.R.S. § 42-1-102(33), any implement of husbandry, as defined in C.R.S. § 42-1-102(44), and irrigation equipment having a per unit purchase price of at least \$1,000.00. The term "farm equipment" also includes, regardless of purchase price, attachments and baling wire, binders twine and surface wrap used primarily and directly in any farm operation. The term "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this definition, all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. Farm equipment also includes, regardless of purchase price, dairy equipment. Except for shipping pallets, crates or aids used in the transfer or shipping of agricultural products, the term "farm equipment" does not include:

- (1) Vehicles subject to the registration requirements of C.R.S. § 42-3-103, regardless of the purpose for which such vehicles are used;
- (2) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;
- (3) Maintenance and janitorial equipment and supplies; and

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- (4) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.

Farm operation means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products:

- (1) Agricultural, viticultural, fruit, and vegetable products;
- (2) Livestock;
- (3) Milk;
- (4) Honey; and
- (5) Poultry and eggs.

Finance Director means the Finance Director of the City or such other person designated by the municipality; including such person's designee.

Garage sale means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term "garage sale" includes, but is not limited to, yard sales, estate sales, and block sales.

Gross sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

Internet access services means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

Internet subscription service means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services, including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

License means a City of Montrose sales and/or use tax license.

Linen services means services involving the provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

Lodging services means the furnishing of any rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who, for consideration possesses or has the right to use or possess any room, including, but not limited to, a hotel, inn, bed and breakfast, apartment, lodginghouse, short-term rental, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park, any portion of a dwelling unit or other area which accommodates a guest, or similar establishment, for a period of less than 30 days under any rental agreement, concession, permit, right of access, license to use, or other agreement.

Machinery means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term "machinery" includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

Manufactured home means any preconstructed building unit or combination of preconstructed building units, without motive power, where such units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

Manufacturing means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

Marketplace means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

Marketplace facilitator means a person who:

- (1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's tangible personal property, products, or services through the person's marketplace;
- (2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and
- (3) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.

"Marketplace facilitator" does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

Marketplace seller means a person, regardless of whether or not the person is engaged in business in the City, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

Medical marijuana means marijuana acquired, possessed, cultivated, manufactured, delivered, transported, supplied, sold, or dispensed to a person who qualifies as a patient with a debilitating medical condition under Article XVIII, Section 14, of the State Constitution, and which person holds a valid registry identification card issued by the State of Colorado pursuant to Colorado Constitution, Article XVIII, Section 14.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally-operated or moved over the public highways. The term "mobile machinery and self-propelled construction equipment" includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

Modular home means any structure that consists of multiple Sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed according to the building codes adopted by the state division of housing, created in C.R.S. § 24-32-706, and is designed to be installed on a permanent foundation.

Motor fuel means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term "motor fuel" does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.

Multichannel seller means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

Newspaper means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

Online garage sales means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller's household.

Parent means a parent of a student.

Person means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

Photovoltaic system means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems and other electrical accessories to set up a working system.

Precious metal bullion means any precious metal, including, but not limited to, gold, silver, platinum, and palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content and not its form.

Prepress preparation material means all materials used by those in the printing industry, including, but not limited to, airbrush color photos, color keys, dies, engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates, proofing materials, tape, transparencies, and Veloxes, which are used by printers in the preparation of customer specific layouts or in plates used to fill customers' printing orders, which are eventually sold to a customer, either in their original purchase form or in an altered form, and for which a sales or use tax is demonstrably collected from the printer's customer, if applicable, either separately from the printed materials or as part of the inclusive price therefor. Materials sold to a printer which are used by the printer for the printer's own purposes, and are not sold, either directly or in an altered form, to a customer, are not included within this definition.

Preprinted newspaper supplements shall mean inserts, attachments or supplements circulated in newspapers that:

- (1) Are primarily devoted to advertising; and
- (2) The distribution, insertion, or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Prescription drugs for humans means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Price or purchase price means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of

materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this Article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

- (1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
- (2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft.

Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

The term "price" or "purchase price" includes:

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser if not separately stated.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

The term "price" or "purchase price" shall not include:

- (1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to, exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.
- (3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

Prosthetic devices for animals means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a

particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Prosthetic devices for humans means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Purchase or sale means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold. The term "purchase" or "sale" include capital leases, installment and credit sales, and property and services acquired by:

- (1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;
- (3) Performance of taxable services; or
- (4) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms "purchase" and "sale" do not include:

- (1) A division of partnership assets among the partners according to their interests in the partnership;
- (2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (4) A transfer of a partnership or limited liability company interest;
- (5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
- (7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;
- (8) The transfer of assets from a subsidiary company or companies which are owned at least 80 percent by the parent company to a parent company or to another subsidiary which is owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;
- (9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Article was paid by the transferor company at the time it acquired

such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company.

To such an extent, any transfer referred to in this Section shall constitute a sale. For the purposes of this Section, a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at 80 eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.

Rail carrier means as defined in Section 10102 of Title 49 of the United States Code as of October 10, 2013, and as it may be amended hereafter.

Rail carrier part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of a locomotive or rail car used by a rail carrier.

Recreation services means all services relating to athletic or entertainment participation events and/or activities, including, but not limited to, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games and video club memberships.

Recycled paper carryout bag means a carryout bag made from one hundred percent:

(1) Recycled material; or

(2) Other post-consumer content.

Renewable energy means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

Resident means a person who resides or maintains one or more places of business within the City, regardless of whether that person also resides or maintains a place of business outside of the City.

Retail sales means all sales except wholesale sales.

Retailer or vendor means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The term "retailer" shall include, but is not limited to, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;
- (4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property;
- (5) Marketplace facilitator, marketplace seller, or multichannel seller.

Retailer-contractor means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

Return means any form prescribed by the City administration for computing and reporting a total tax liability.

Sale that benefits a Colorado school means a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to a person or entity as described in this Code, are donated to a school or a school-approved student organization.

Sales tax means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code.

School means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

Security system services means electronic alarm and/or monitoring services. The term "security system services" does not include non-electronic security services such as consulting or human or guard dog patrol services.

Single-use plastic carryout bag means a carryout bag that is a single-use plastic product made predominantly of plastic derived from natural gas, petroleum, or a biologically based source such as corn or other plant sources, and that is provided to a customer at the point of sale.

Soft drink means a nonalcoholic beverage that contains natural or artificial sweeteners. The term "soft drink" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

Software as a service means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including, but not limited to, applications, systems or programs.

Software license fee means a fee charged for the right to use, access, or maintain software programs.

Software maintenance agreement means an agreement, typically with a software provider, that may include

- (1) Provisions to maintain the right to use the software;
- (2) Provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or
- (3) Technical support.

Software program means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g.; a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. The term "software program" includes:

- (1) Custom software program, which is a software program prepared to the special order or specifications of a single customer;
- (2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as "canned off-the-shelf (COTS)," "mass produced" or "standardized";
- (3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and
- (4) The generic terms "software," "software application," as well as "updates," "upgrades," "patches," "user exits," and any items which add or extend functionality to existing software programs.

Solar thermal systems means a system whose primary purpose is to use energy from the sun to produce heat or cold for:

- (1) Heating or cooling a residential or commercial building;
- (2) Heating or cooling water; or
- (3) Any industrial, commercial, or manufacturing process.

Sound system service means the provision of broadcast or pre-recorded audio programming to a building or portion thereof. The term "sound system service" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

Special fuel means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term "special fuel" does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives.

Special sales event means any sales event which includes more than three vendors taking place at a single location for a limited period of time not to exceed seven consecutive days.

Storage means any keeping or retention of, or to exercise dominion or control over, or possession of, for any length of time, tangible personal property, not while in transit, but on a stand-still basis, for future use when leased, rented or purchased at retail from sources either within or without the City, from any person or vendor.

Student means any person enrolled in a school.

Tangible personal property means personal property that can be one or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged; or that is in any other manner perceptible to the senses.

Tax means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

Tax deficiency or deficiency means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

Taxable sales means gross sales less any exemptions and deductions specified in this Code.

Taxable services means services subject to tax pursuant to this Code.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this Code.

Telecommunications service means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications, including, but not limited to, voice, image, data and any other information, by the use of any means but not limited to, wire, cable, fiber optic cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication. The term "telecommunications service" does not include separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted to their exemption language.

Television and entertainment services means audio or visual content, that can be transmitted electronically by any means, for which a charge is imposed.

Therapeutic device means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

Toll free telecommunications service means a telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.

Total tax liability means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Transient/temporary sale means a sale by any person who engages in a temporary business of selling and delivering goods within the City for a period of no more than seven consecutive days.

Transient/temporary vendor means any person who engages in the business of transient/temporary sales.

Use means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer. The term "use" also includes the withdrawal of items from inventory for consumption.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

Wholesale sales means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this Chapter.

Wholesaler means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers, or other wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

(Code 2012, § 5-15-2; Ord. No. 2432 , § 5-15-2, 9-19-2017; Ord. No. 2473 , § 1(5-15-2), 5-7-2019; Ord. No. 2508 , §§ 1—3, 7-4-2020)

Sec. 5-15-7. Exemption from sales tax.

There shall be exempt from the sales tax under the provisions of this Chapter, the following:

- (A) All sales to the United States Government, its states, their departments and institutions, and the political subdivisions thereof (including the City) in their governmental capacities only.
- (B) All sales made to religious and charitable corporations for use in the conduct of their regular religious or charitable functions and activities.
- (C) All sales which the City is prohibited from taxing under the Constitutions or laws of the United States or the State of Colorado or the Charter or ordinances of the City.
- (D) All sales of cigarettes and tobacco products.
- (E) All sales and purchases of rooms or accommodations under the provisions of Section 5-15-4(A)6 to any occupant who is a permanent resident of an apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, and who enters into or has entered into a written agreement for occupancy for a room or rooms or accommodations for a period of at least 30 consecutive days during the calendar year or preceding year.
- (F) All sales of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax of 1933 and amendments thereto.
- (G) Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any Article, substance, commodity, which tangible personal property enters into the processing of or become an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter.
- (H) Sales and purchases of electricity, coal, fuel oil, gas or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telecommunication services, street and railroad transportation services and all industrial uses, the newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter.
- (I) All sales and purchases of the following for use on farms or ranches for farming or ranching operations qualified by the City's Standard Municipal Home Rule Affidavit of Exempt Sale form:
 - (1) Feed for livestock, fish or poultry.
 - (2) Salt, seed, plants, orchard trees.
 - (3) Fertilizer, insecticides, herbicides, and chemicals or compounds.
 - (4) Twine, bailing wire, bags, boxes, other containers.
 - (5) Barbed wire and other fencing materials and posts; irrigation pipe and fixtures; grain bins; stock watering, feeding and handling equipment.
 - (6) Livestock, and poultry.
- (J) All sales and purchases of farm equipment, and parts for farm equipment, as defined under this Chapter.
- (K) The entire purchase or sale price of motor vehicles bearing a Vehicle Identification Number (VIN) and which are required to be registered under the Colorado Motor Vehicle Laws, whether new or used

under the following conditions, with the exception of 50 percent the purchase or sales price of a manufactured home subject to a building permit fees collected under Subsection (N) of this Section.

- (1) The purchaser, if a natural person, is not a resident of the City; and
 - (2) The vehicles or manufactured home is to be registered under an address outside of the City and will be primarily housed, located or occupied at such address or other place outside the City.
- (L) Sales of tangible personal property shall be exempted from the operation of this Chapter if both the following conditions exist:
- (1) The sales are to those who are residents or doing business outside the City; and
 - (2) The articles purchased are to be delivered to the purchaser outside the City by common carrier or by the conveyance of the seller or by mail.
- (M) All sales and purchases of medical supplies. Drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes, and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.
- (N) Fifty percent of the initial purchase price of any buildings or structures.
- (O) The entire purchase price in any subsequent sale of any buildings or structures severed from real estate.
- (P) The sale of construction materials. If such materials are delivered to the worksite and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City evidencing that a local use tax has been paid.
- (Q) The sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of the percent set forth in Section 5-15-4(A) as the City's sales and use tax rate. A credit shall be granted against the City's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed the City's sales tax rate.
- (R) All sales and purchases of newspapers, whether in print or digital form.
- (S) Recycled paper carryout bags or single-use plastic carryout bags subject to the ten cent Carryout Bag Fee imposed upon businesses by C.R.S. 25-17-505.

(Code 2012, § 5-15-7; Ord. No. 2432 , § 5-15-7, 9-19-2017; Ord. No. 2473 , § 1(5-15-7), 5-7-2019)

ORDINANCE NO. 2590

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING TITLE 5 CHAPTER 15 SECTIONS 2 AND 7, REGARDING A SALES TAX EXEMPTION FOR A FEE THE STATE OF COLORADO IS IMPOSING ON CARRYOUT BAGS.

WHEREAS, the City's Municipal Code is updated from time to time; and

WHEREAS, the City must implement a "Carryout Bag Fee," as designated by the State of Colorado through HB21-1162.

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

The following Sections of Title 5 Chapter 15 of the Official Code of the City of Montrose, Colorado are hereby amended to read in full as follows:

Sec. 5-15-2. Words and phrases defined.

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

Agricultural producer means a person regularly engaged in the business of using land for the production of commercial crops or commercial livestock. The term "agricultural producer" includes farmers, market gardeners, commercial fruit growers, livestock breeders, dairymen, poultrymen, and other persons similarly engaged, but does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for that person's own consumption or casual sale.

Aircraft means a device that is used or intended to be used for flight in the air.

Aircraft part means any tangible personal property that is intended to be permanently affixed or attached as a component part of an aircraft.

Aircraft simulator means a flight simulator training device (FSTD) as defined in Part I of title 14 of the Code of Federal Regulations that is qualified in accordance with Part 60 of title 14 of the Code of Federal Regulations for use in a Federal Aviation Administration Approved Flight Training Program.

Aircraft simulator part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of an aircraft, and which will also function when it is permanently affixed or attached as a component part of an aircraft simulator.

Airline company means any operator who engages in the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail, or any aircraft operator who operates regularly between two or more points and publishes a flight schedule. Airline company shall not include operators whose aircraft are all certified for a gross takeoff weight of 12,500 pounds or less and who do not engage in scheduled service or mail carriage service.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

Automotive vehicle means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. The term "automotive vehicle" includes, but is not limited to, motor vehicles, trailers, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Business means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

Candy means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

Carrier access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Carryout bag means a bag that is furnished to a customer at a store or retail food establishment at the point of sale for use by the customer to transport or carry purchased items. Carryout bag does not include:

- (1) A bag made of paper when the paper has a basis weight of thirty pounds or less;
- (2) A bag that a pharmacy provides a customer purchasing prescription medication;
- (3) A bag that a customer uses inside a store to:
 - a. Package loose or bulk items, such as fruits, vegetable, nuts, grains, candy, or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;
 - b. Contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items; or
 - c. Contain unwrapped prepared foods or bakery goods; or
- (4) A laundry, dry cleaning, or garment bag.

Charitable organization means any entity which:

- (1) Has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code; and
- (2) Is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

City or town means the municipality of the City of Montrose.

Coin means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this state, the United States or any foreign nation.

Coin-operated device means any device operated by coins or currency or any substitute therefor.

Collection costs shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

Commercial packaging materials means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. The term "commercial packaging materials" does not include commercial shipping materials.

Commercial shipping materials means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. The term "commercial shipping materials" include but are not limited to, containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

Community organization means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as:

- (1) No part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and
- (3) Which does not participate in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

Construction materials means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. The term "construction materials" includes, but is not limited to, such things as, asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms or other items which do not remain as an integral and inseparable part of a completed structure or project, are not construction materials.

Consumer means any person in the City who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the City.

Contract auditor means a duly authorized agent designated by the taxing authority and qualified to conduct tax audits on behalf of and pursuant to an agreement with the municipality.

Contractor means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For the purposes of this definition, the term "contractor" also includes subcontractor.

Cover charge means a charge paid to a club or similar entertainment establishment which may or may not entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

Data processing equipment means any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information.

Digital product means an electronic product, including, but not limited to, the following:

Digital audio works means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For the purposes of the definition of the term "digital audio works," the term "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

Digital audio-visual works means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

Digital books means works that are generally recognized in the ordinary and usual sense as books.

Digital images means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as photographs, logos, cartoons, or drawings.

Distribution means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shopper's guides, catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

Dual residency means those situations, including, but not limited to, where a person maintains a residence, place of business or business presence, both within and outside the City. A person shall be deemed to have established a legitimate residence, place of business or business presence outside of the City for the purposes of dual residency if the person has a physical structure owned, leased or rented by such person which is designated by street number or road location outside of the City, has within it a telephone in the name of such person and conducts business operations on a regular basis at such location in a manner that includes the type of business activities for which the business (person), as defined in this Code, is organized.

Dwelling unit means a building or any portion of a building designed for occupancy as complete, independent living quarters for one or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

Economic nexus means the connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City, and: (1) In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended; or (2) In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.

Engaged in business in the City means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption, within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:

- (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- (2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction;
- (5) Retailor or vendor in the state of Colorado that makes more than one delivery into the taxing jurisdiction within a 12-month period; or
- (6) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in 5-15-2.

Factory built housing means a manufactured home or modular home.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Farm equipment means any farm tractor, as defined in C.R.S. § 42-1-102(33), any implement of husbandry, as defined in C.R.S. § 42-1-102(44), and irrigation equipment having a per unit purchase price of at least \$1,000.00. The term "farm equipment" also includes, regardless of purchase price, attachments and bailing wire, binders twine and surface wrap used primarily and directly in any farm operation. The term "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this definition, all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. Farm equipment also includes, regardless of purchase price, dairy equipment. Except for shipping pallets, crates or aids used in the transfer or shipping of agricultural products, the term "farm equipment" does not include:

- (1) Vehicles subject to the registration requirements of C.R.S. § 42-3-103, regardless of the purpose for which such vehicles are used;
- (2) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;
- (3) Maintenance and janitorial equipment and supplies; and
- (4) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.

Farm operation means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products:

- (1) Agricultural, viticultural, fruit, and vegetable products;
- (2) Livestock;
- (3) Milk;
- (4) Honey; and
- (5) Poultry and eggs.

Finance Director means the Finance Director of the City or such other person designated by the municipality; including such person's designee.

Garage sale means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term "garage sale" includes, but is not limited to, yard sales, estate sales, and block sales.

Gross sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

Internet access services means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

Internet subscription service means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services, including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

License means a City of Montrose sales and/or use tax license.

Linen services means services involving the provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

Lodging services means the furnishing of any rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who, for consideration possesses or has the right to use or possess any room, including, but not limited to, a hotel, inn, bed and breakfast, apartment, lodginghouse, short-term rental, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park, any portion of a dwelling unit or other area which accommodates a guest, or similar establishment, for a period of less than 30 days under any rental agreement, concession, permit, right of access, license to use, or other agreement.

Machinery means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term "machinery" includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

Manufactured home means any preconstructed building unit or combination of preconstructed building units, without motive power, where such units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

Manufacturing means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

Marketplace means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

Marketplace facilitator means a person who:

- (1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale

of the marketplace seller's tangible personal property, products, or services through the person's marketplace;

- (2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and
- (3) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.

"Marketplace facilitator" does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

Marketplace seller means a person, regardless of whether or not the person is engaged in business in the City, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

Medical marijuana means marijuana acquired, possessed, cultivated, manufactured, delivered, transported, supplied, sold, or dispensed to a person who qualifies as a patient with a debilitating medical condition under Article XVIII, Section 14, of the State Constitution, and which person holds a valid registry identification card issued by the State of Colorado pursuant to Colorado Constitution, Article XVIII, Section 14.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally-operated or moved over the public highways. The term "mobile machinery and self-propelled construction equipment" includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

Modular home means any structure that consists of multiple Sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed according to the building codes adopted by the state division of housing, created in C.R.S. § 24-32-706, and is designed to be installed on a permanent foundation.

Motor fuel means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term "motor fuel" does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.

Multichannel seller means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

Newspaper means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

Online garage sales means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller's household.

Parent means a parent of a student.

Person means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

Photovoltaic system means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems and other electrical accessories to set up a working system.

Precious metal bullion means any precious metal, including, but not limited to, gold, silver, platinum, and palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content and not its form.

Prepress preparation material means all materials used by those in the printing industry, including, but not limited to, airbrush color photos, color keys, dies, engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates, proofing materials, tape, transparencies, and Veloxes, which are used by printers in the preparation of customer specific layouts or in plates used to fill customers' printing orders, which are eventually sold to a customer, either in their original purchase form or in an altered form, and for which a sales or use tax is demonstrably collected from the printer's customer, if applicable, either separately from the printed materials or as part of the inclusive price therefor. Materials sold to a printer which are used by the printer for the printer's own purposes, and are not sold, either directly or in an altered form, to a customer, are not included within this definition.

Preprinted newspaper supplements shall mean inserts, attachments or supplements circulated in newspapers that:

- (1) Are primarily devoted to advertising; and
- (2) The distribution, insertion, or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Prescription drugs for humans means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Price or purchase price means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this Article, and, in the case of all retail sales involving the exchange of

property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

- (1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
- (2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft.

Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

The term "price" or "purchase price" includes:

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser if not separately stated.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

The term "price" or "purchase price" shall not include:

- (1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to, exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.
- (3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

Prosthetic devices for animals means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Prosthetic devices for humans means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Purchase or sale means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold. The term "purchase" or "sale" include capital leases, installment and credit sales, and property and services acquired by:

- (1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;
- (3) Performance of taxable services; or
- (4) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms "purchase" and "sale" do not include:

- (1) A division of partnership assets among the partners according to their interests in the partnership;
- (2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (4) A transfer of a partnership or limited liability company interest;
- (5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration, including, but not limited to, the assumption of a liability, is paid for the transfer of assets;
- (6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
- (7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;
- (8) The transfer of assets from a subsidiary company or companies which are owned at least 80 percent by the parent company to a parent company or to another subsidiary which is owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

- (9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company.

To such an extent, any transfer referred to in this Section shall constitute a sale. For the purposes of this Section, a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at 80 eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.

Rail carrier means as defined in Section 10102 of Title 49 of the United States Code as of October 10, 2013, and as it may be amended hereafter.

Rail carrier part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of a locomotive or rail car used by a rail carrier.

Recreation services means all services relating to athletic or entertainment participation events and/or activities, including, but not limited to, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games and video club memberships.

Recycled paper carryout bag means a carryout bag made from one hundred percent:

- (1) Recycled material; or
- (2) Other post-consumer content.

Renewable energy means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

Resident means a person who resides or maintains one or more places of business within the City, regardless of whether that person also resides or maintains a place of business outside of the City.

Retail sales means all sales except wholesale sales.

Retailer or vendor means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The term "retailer" shall include, but is not limited to, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;
- (4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property;
- (5) Marketplace facilitator, marketplace seller, or multichannel seller.

Retailer-contractor means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

Return means any form prescribed by the City administration for computing and reporting a total tax liability.

Sale that benefits a Colorado school means a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to a person or entity as described in this Code, are donated to a school or a school-approved student organization.

Sales tax means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code.

School means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

Security system services means electronic alarm and/or monitoring services. The term "security system services" does not include non-electronic security services such as consulting or human or guard dog patrol services.

Single-use plastic carryout bag means a carryout bag that is a single-use plastic product made predominantly of plastic derived from natural gas, petroleum, or a biologically based source such as corn or other plant sources, and that is provided to a customer at the point of sale.

Soft drink means a nonalcoholic beverage that contains natural or artificial sweeteners. The term "soft drink" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

Software as a service means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including, but not limited to, applications, systems or programs.

Software license fee means a fee charged for the right to use, access, or maintain software programs.

Software maintenance agreement means an agreement, typically with a software provider, that may include

- (1) Provisions to maintain the right to use the software;
- (2) Provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or
- (3) Technical support.

Software program means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g.; a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. The term "software program" includes:

- (1) Custom software program, which is a software program prepared to the special order or specifications of a single customer;
- (2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as "canned off-the-shelf (COTS)," "mass produced" or "standardized";
- (3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and

- (4) The generic terms "software," "software application," as well as "updates," "upgrades," "patches," "user exits," and any items which add or extend functionality to existing software programs.

Solar thermal systems means a system whose primary purpose is to use energy from the sun to produce heat or cold for:

- (1) Heating or cooling a residential or commercial building;
- (2) Heating or cooling water; or
- (3) Any industrial, commercial, or manufacturing process.

Sound system service means the provision of broadcast or pre-recorded audio programming to a building or portion thereof. The term "sound system service" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

Special fuel means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term "special fuel" does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives.

Special sales event means any sales event which includes more than three vendors taking place at a single location for a limited period of time not to exceed seven consecutive days.

Storage means any keeping or retention of, or to exercise dominion or control over, or possession of, for any length of time, tangible personal property, not while in transit, but on a stand-still basis, for future use when leased, rented or purchased at retail from sources either within or without the City, from any person or vendor.

Student means any person enrolled in a school.

Tangible personal property means personal property that can be one or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged; or that is in any other manner perceptible to the senses.

Tax means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

Tax deficiency or deficiency means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

Taxable sales means gross sales less any exemptions and deductions specified in this Code.

Taxable services means services subject to tax pursuant to this Code.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this Code.

Telecommunications service means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications, including, but not limited to, voice, image, data and any other information, by the use of any means but not limited to, wire, cable, fiber optic cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication. The term "telecommunications service" does not include separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted to their exemption language.

Television and entertainment services means audio or visual content, that can be transmitted electronically by any means, for which a charge is imposed.

Therapeutic device means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

Toll free telecommunications service means a telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.

Total tax liability means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Transient/temporary sale means a sale by any person who engages in a temporary business of selling and delivering goods within the City for a period of no more than seven consecutive days.

Transient/temporary vendor means any person who engages in the business of transient/temporary sales.

Use means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer. The term "use" also includes the withdrawal of items from inventory for consumption.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

Wholesale sales means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this Chapter.

Wholesaler means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers, or other wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

Sec. 5-15-7. Exemption from sales tax.

There shall be exempt from the sales tax under the provisions of this Chapter, the following:

- (A) All sales to the United States Government, its states, their departments and institutions, and the political subdivisions thereof (including the City) in their governmental capacities only.
- (B) All sales made to religious and charitable corporations for use in the conduct of their regular religious or charitable functions and activities.
- (C) All sales which the City is prohibited from taxing under the Constitutions or laws of the United States or the State of Colorado or the Charter or ordinances of the City.
- (D) All sales of cigarettes and tobacco products.
- (E) All sales and purchases of rooms or accommodations under the provisions of Section 5-15-4(A)6 to any occupant who is a permanent resident of an apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, and who enters into or has entered into a written agreement for occupancy for a room or rooms or accommodations for a period of at least 30 consecutive days during the calendar year or preceding year.
- (F) All sales of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax of 1933 and amendments thereto.

- (G) Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any Article, substance, commodity, which tangible personal property enters into the processing of or become an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter.
- (H) Sales and purchases of electricity, coal, fuel oil, gas or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telecommunication services, street and railroad transportation services and all industrial uses, the newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter.
- (I) All sales and purchases of the following for use on farms or ranches for farming or ranching operations qualified by the City's Standard Municipal Home Rule Affidavit of Exempt Sale form:
 - (1) Feed for livestock, fish or poultry.
 - (2) Salt, seed, plants, orchard trees.
 - (3) Fertilizer, insecticides, herbicides, and chemicals or compounds.
 - (4) Twine, bailing wire, bags, boxes, other containers.
 - (5) Barbed wire and other fencing materials and posts; irrigation pipe and fixtures; grain bins; stock watering, feeding and handling equipment.
 - (6) Livestock, and poultry.
- (J) All sales and purchases of farm equipment, and parts for farm equipment, as defined under this Chapter.
- (K) The entire purchase or sale price of motor vehicles bearing a Vehicle Identification Number (VIN) and which are required to be registered under the Colorado Motor Vehicle Laws, whether new or used under the following conditions, with the exception of 50 percent the purchase or sales price of a manufactured home subject to a building permit fees collected under Subsection (N) of this Section.
 - (1) The purchaser, if a natural person, is not a resident of the City; and
 - (2) The vehicles or manufactured home is to be registered under an address outside of the City and will be primarily housed, located or occupied at such address or other place outside the City.
- (L) Sales of tangible personal property shall be exempted from the operation of this Chapter if both the following conditions exist:
 - (1) The sales are to those who are residents or doing business outside the City; and
 - (2) The articles purchased are to be delivered to the purchaser outside the City by common carrier or by the conveyance of the seller or by mail.

- (M) All sales and purchases of medical supplies. Drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes, and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.
- (N) Fifty percent of the initial purchase price of any buildings or structures.
- (O) The entire purchase price in any subsequent sale of any buildings or structures severed from real estate.
- (P) The sale of construction materials. If such materials are delivered to the worksite and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City evidencing that a local use tax has been paid.
- (Q) The sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of the percent set forth in Section 5-15-4(A) as the City's sales and use tax rate. A credit shall be granted against the City's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed the City's sales tax rate.
- (R) All sales and purchases of newspapers, whether in print or digital form.
- (S) Recycled paper carryout bags or single-use plastic carryout bags subject to the ten cent Carryout Bag Fee imposed upon businesses by C.R.S. 25-17-505.

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 May, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of May, 2022.

David Frank, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 7th day of June, 2022.

David Frank, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
Office of the City Manager

MEMO

TO: City Council
FROM: Ann Morgenthaler, Deputy City Manager
DATE: May 17, 2022
RE: Amendment of Montrose Municipal Code Section 4-4-24 Planned Development (PD)
EXHIBIT: Ordinance and Redline Amendment

Council is considering the second reading of an ordinance to make amendments to the City of Montrose Municipal Code that will facilitate the amendment of previously approved Planned Development (PD) plans.

Council considered the first reading of this ordinance at the May 3, 2022 City Council meeting. No changes have been made to this ordinance since the first reading.

The City of Montrose Municipal Code and past practice have allowed amendments of previously approved (PD) plans in a manner that is consistent with Colorado State Statutes, requiring the consent of all property owners within the prior established PD area. In many cases, PD plan areas have not been fully developed since the time of approval and developer, market, and community needs and desires have changed. Obtaining the consent of all property owners within an established PD plan area for a proposed amendment is infeasible and is a barrier to implementing development that will better suit developer, market, and community needs.

The proposed amendment specifies:

- If only a portion of a PD plan area is amended, then only the consent of the property owners within such portion or the PD plan area will be required.
- When public notice of an amendment to a PD plan area is required, it will be sent to all owners within the prior-approved PD plan area in addition to being provided to property owners within 100 feet of proposed amended PD plan area.
- The current City requirement that the creation of a new PD plan area requires the consent of all property owners within the proposed PD plan area.

This will provide more flexibility regarding required consent than provided by State Statute for PDs, which is within the City of Montrose's rights as a Home Rule Municipality.

Sec. 4-4-24. 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. The City is authorized to enact and amend regulations for the establishment and control of planned developments pursuant to Article XX of the Colorado constitution and CRS 24-67-101, et. seq.
- (B) *General Provisions.*
- (1) A planned development must be in substantial conformity with the City's Master Plans. 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, or unless the property is subdivided pursuant to City Subdivision Regulations. Provided all other applicable municipal Code provisions are satisfied, this Subsection is not intended to prohibit the issuance of building permits for property that has obtained:
 - (a) A PD Plan;
 - (b) A subdivision Preliminary Plat; or
 - (c) An approved final plat.
 - (2) A minimum of 20 percent of the gross area of the planned development must be preserved as parks or open space.
 - (3) The PD Plan must reasonably preserve and protect rural character, open space, scenic views, drainage areas and other valued resources.
 - (4) 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) Parks, open space, growing of agricultural crops, golf courses; and "uses by right" and "conditional uses" in the zone or zones in which the PD is located shall be permitted when approved as part of the planned development.
 - (2) Modular buildings 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.
 - (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.
 - (a) Planned developments containing six or fewer units may be approved by following the administrative procedures set forth in this Subsection (C)(4).
 - (b) The 20 percent open space requirement applicable to planned developments shall be optional for those planned developments meeting the standards set forth in Subsection (C)(4)(a) of this Section.
 - (c) Developments containing airspace units with undivided interests in common areas, shall show and describe said airspace units in three dimensions on the plat thereof. Developments of this type shall be known as "condominiums" and shall be labeled as such on the plat thereof.

-
- (e) Developments having zero lot-line setbacks, but containing non-airspace-only units, may not be required to show said units in three dimensions on the plat thereof, though certain party wall details may be required, in the City's sole discretion. Developments of this type shall be known as "Townhomes" and shall be labeled as such on the plat thereof. Townhomes shall include the underlying real property, and shall typically include yard area not encumbered by limited or general common elements, when applicable.
- (5) Administrative PD Procedures:
- (a) All lots or tracts are adjacent to a dedicated and accepted public street;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) No material changes to prior restrictions or easements are proposed; and
 - (f) Provisions of Section 4-7-9(B) through and including (E) shall apply.
 - (g) 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.
 - (h) 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.**

(D) *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. 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.

(E) *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 4-7. 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 4-4-24, "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.**

-
- (32) Conditions may be imposed as appropriate to assure that the PD plan is consistent with the City's Master Plans and promotes the public health, safety and welfare.
- (43) 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.
- (54) The planned development Plan as approved shall be recorded.
- (65) The final PD plan may be treated as a vested right if and only if the following procedures are met:
- (a) 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.
 - (b) 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 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. For the purposes of these provisions, PD plan shall mean the same as a "site specific development plan" as defined in the aforementioned Statutes.
 - (c) Vested 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.

(F) *Required Improvements.*

- (1) All PDs shall provide the same improvements as required for subdivisions in Chapter 4-7, and security therefore shall be provided as set out in Section 4-7-8.
- (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 4-7 except as modified by the 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.

~~(G) (5)~~ Enforcement and Amendments.

- (1a) The PD plan may be enforced in accordance with or in the same manner as the provisions of the Planned Unit 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 Section 4-7-8 of the City's subdivision regulations, except that cash must be placed in the escrow account prior to issuance of the occupancy permit.

-
- (2b) 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 4-7 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 100 feet of the proposed Amended PD plan area. (Ord. No. 2472 , § 4-4-24, 5-7-2019; Ord. No. 2493 , 2-4-2020)

ORDINANCE NO. 2589

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING TITLE 4 CHAPTER 4 SECTION 24, REGARDING PLANNED DEVELOPMENT (PD) REGULATIONS TO CLARIFY THE PROCESS, CONSENT, AND PUBLIC NOTICE REQUIREMENTS FOR APPLICATIONS TO AMEND AN EXISTING PLANNED DEVELOPMENT PLAN.

WHEREAS, the City of Montrose is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the City Council has previously enacted Chapter 4 of Title IV of the Official Code of the City of Montrose, concerning land use and zoning (the "Zoning Regulations"); and

WHEREAS, the City Council finds that amending the Planned Development regulations to clarify the process, consent, and publication notice for the amendment of Planned Development Plans will allow for modifications that suit market and community needs for development in Montrose; and

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

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

Section 1. Zoning Regulations Amended

The following Sections of Title 4 Chapter 4 Section 24 of the Official Code of the City of Montrose, Colorado are hereby amended to read in full as follows:

Sec. 4-4-24. 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. The City is authorized to enact and amend regulations for the establishment and control of planned developments pursuant to Article XX of the Colorado constitution and C.R.S. § 24-67-101, et. seq.

(B) *General Provisions.*

- (1) A planned development must be in substantial conformity with the City's Master Plans. 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, or unless the property is subdivided pursuant to City Subdivision Regulations. Provided all other applicable municipal Code provisions are satisfied, this Subsection is not intended to prohibit the issuance of building permits for property that has obtained:
 - (a) A PD Plan;
 - (b) A subdivision Preliminary Plat; or
 - (c) An approved final plat.
- (2) A minimum of 20 percent of the gross area of the planned development must be preserved as parks or open space.
- (3) The PD Plan must reasonably preserve and protect rural character, open space, scenic views, drainage areas and other valued resources.
- (4) 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) Parks, open space, growing of agricultural crops, golf courses; and "uses by right" and "conditional uses" in the zone or zones in which the PD is located shall be permitted when approved as part of the planned development.
- (2) Modular buildings 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.
- (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.
 - (a) Planned developments containing six or fewer units may be approved by following the administrative procedures set forth in this Subsection (C)(4).
 - (b) The 20 percent open space requirement applicable to planned developments shall be optional for those planned developments meeting the standards set forth in Subsection (C)(4)(a) of this Section.
 - (c) Developments containing airspace units with undivided interests in common areas, shall show and describe said airspace units in three dimensions on the plat thereof. Developments of this type shall be known as "condominiums" and shall be labeled as such on the plat thereof.

- (d) Developments having zero lot-line setbacks, but containing non-airspace-only units, may not be required to show said units in three dimensions on the plat thereof, though certain party wall details may be required, in the City's sole discretion. Developments of this type shall be known as "Townhomes" and shall be labeled as such on the plat thereof. Townhomes shall include the underlying real property, and shall typically include yard area not encumbered by limited or general common elements, when applicable.
- (5) Administrative PD Procedures:
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 - (d) 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;
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 - (f) Provisions of Section 4-7-9(B) through and including (E) shall apply.
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(D) *Dimensional Requirements, Densities.*

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(E) *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 4-7. 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 4-4-24, "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.
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- (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.
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- (6) The final PD plan may be treated as a vested right if and only if the following procedures are met:
 - (a) 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.
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(G) Enforcement and Amendments.

- (1) The PD plan may be enforced in accordance with or in the same manner as the provisions of the Planned Unit 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 Section 4-7-8 of the City's subdivision regulations, 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 4-7 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 100 feet of the proposed Amended PD plan area.

Section 2. Severability

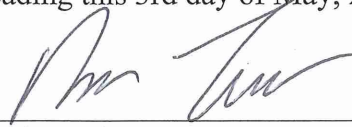
This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon adoption at second reading and publication as required by the charter.

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 3rd day of May, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 3rd day of May, 2022.



David Frank, Mayor

ATTEST:



Lisa DelPiccolo, City Clerk



INTRODUCED, READ and ADOPTED on second reading this 17th day of May, 2022.

David Frank, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. 2588

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, the City of Montrose owns property along the southern side of Grand Avenue immediately north and adjacent to the Montrose County Justice Center; and

WHEREAS, a portion of this property is obsolete and does not serve a public need or benefit to the City of Montrose; and

WHEREAS, the City wishes to dispose of this obsolete portion of property described in **Exhibit A** hereto and convey to the adjacent property owner, Montrose County; and

WHEREAS, the City owns and operates an active sanitary sewer utility across this obsolete property and wishes to retain a 20 foot wide utility easement centered about the sanitary sewer line, also as described in **Exhibit A**.

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 on **Exhibit A**, attached hereto and incorporated herein, is hereby disposed of by the City of Montrose and shall be conveyed to the adjacent property owner, Montrose County. The City shall retain a public utility easement across the vacated right of way as shown on **Exhibit A**.

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.

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 Section 1-9-2 of the Official Municipal Code of the City of Montrose.

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

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

The City Council hereby authorizes the Mayor and City Staff to execute all documents required to consummate said conveyance to the adjacent property owner, Montrose County.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and its passage on first reading on Tuesday, the 17th day of May 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ, and PASSED on first reading this 17th day of May 2022.

David Frank, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ, and ADOPTED on second reading this 7th day of June 2022.

David Frank, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

DISPOSAL DESCRIPTION:

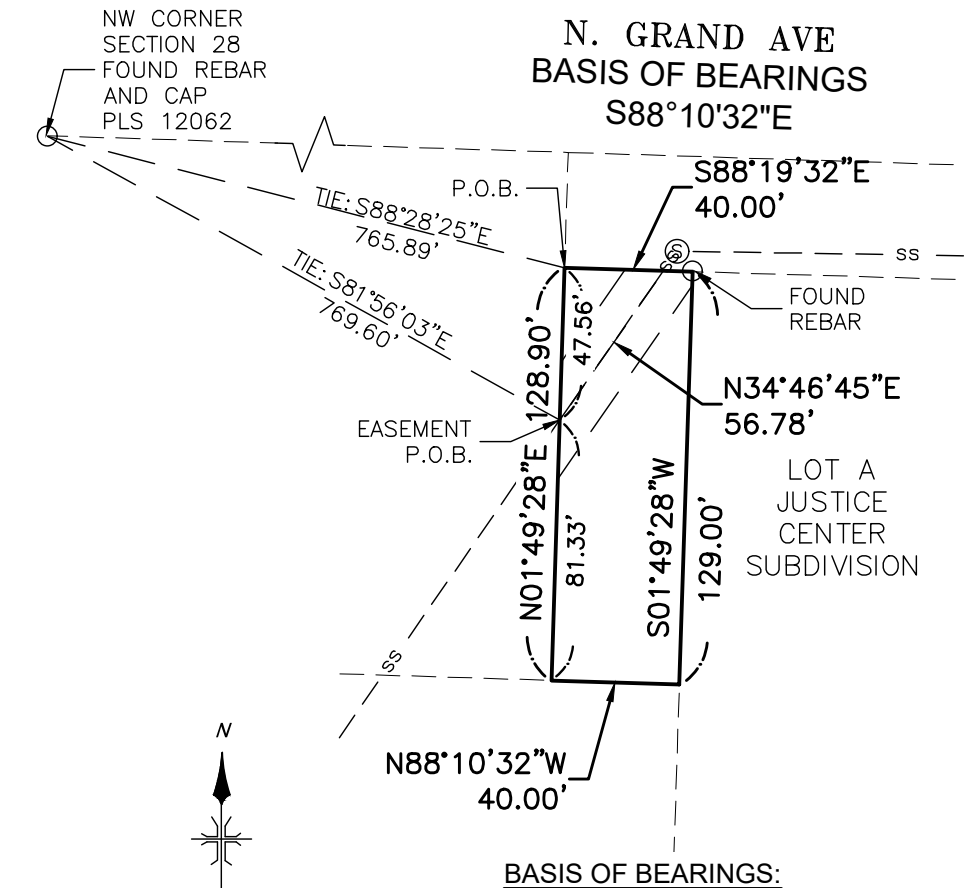
A parcel of land situated in Section 28, Township 49 North, Range 9 West, New Mexico Principal Meridian, County of Montrose, State of Colorado, being more particularly described as:
Beginning at a point S88°28'25"E 765.89 feet from the Northwest corner of said Section 28;
Thence S88°19'32"E 40.00 feet to the Northwest corner of Lot A of the Justice Center Subdivision as recorded in Book 12 Page 1377 in the Montrose County Clerk and Recorder's Office;
Thence S01°49'28"W 129.00 feet along the West line of said Lot A;
Thence N88°10'32"W 40.00 feet;
Thence N01°49'28"E 128.90 feet to the Point of Beginning.
Containing 0.12 Acres more or less as described.

RETAINED UTILITY EASEMENT DESCRIPTION:

A 20 foot wide utility easement situated in Section 28, Township 49 North, Range 9 West, New Mexico Principal Meridian, County of Montrose, State of Colorado, being 10 feet each side of the following described centerline:
Beginning at a point S81°56'03"E 769.60 feet from the Northwest corner of said Section 28;
Thence N34°46'45"E 56.78 feet to the Point of Terminus.
Containing 0.026 Acres more or less as described.

NOTE:

Sidelines of the easement are shortened or lengthened to meet at angle points and to begin and terminate on other easements and property lines.



BASIS OF BEARINGS:

The bearing along the North line of the right of way recorded at Book 504 Page 398 bears S88°10'32"E (ASSUMED)

LINEAL UNITS STATEMENT:

The Lineal Unit used on this plat is U.S. Survey Feet

Nicholas Barrett, PLS 38037
for and on behalf of
Del-Mont Consultants, Inc.
125 Colorado Ave.
Montrose, CO 81401

DISPOSAL EXHIBIT

EXHIBIT A

MONTROSE, CO

CITY OF MONTROSE

DMC 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

DESIGNED BY:	SCALE:
DCC	AS NOTED
CHECKED BY:	FILE NAME:
NEB	22059V_BDRY

D.M. JOB NO.:	22059
DATE ISSUED:	2022-05-09
SHEET:	1 of 1

MEMORANDUM



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
Ryan Cushenan, *Civil Engineer II*
DATE: April 24, 2022
RE: Moving Montrose Forward 2022 Street Maintenance Contract Award
CC: William Bell, Shani Wittenberg

Action

Consider the award of a construction contract to Mountain Valley Contracting in the amount of \$1,430,000 for completion of the Moving Montrose Forward 2022 Contracted Street Maintenance Project.

Background

Starting in 2018, the City of Montrose developed the *Moving Montrose Forward* (MoveMo) initiative which placed a renewed focus on street maintenance, reducing traffic congestion, and improving pedestrian and vehicular mobility throughout the community. As part of this effort, each year the City hires contractors to perform some of the larger-scale and specialized street maintenance construction. This contracted street maintenance work is in addition to typical routine maintenance activities performed by the City's streets department.

The City's street maintenance and capital plan is available on the City's MoveMo webpage and at <https://tinyurl.com/COMStreetPlan>. The street maintenance plan identifies funding needs to sustainably maintain an acceptable pavement condition throughout the City and how available funds should be allocated between the various types of maintenance activities (e.g., surface treatments, mill and overlays, rebuild of failed roadways, etc). Allocation of these funds is geared towards the creation of a comprehensive street-maintenance program focused on striking a balance between maintenance of the better-condition roadways (keeping the "good roads good" and at a lower cost) and eventually restoring those which have experienced failure and are more costly to repair. It should be noted that asset management software and modeling are used to help prioritize appropriate maintenance treatments for the City's roadways and best utilize limited resources.

The City budgeted \$3.26M for this year's MoveMo contracted street maintenance efforts. Approximately 50% of this street maintenance work is focused on surface treatments consisting of slurry and cape seals with a contract for that work awarded on April 19, 2022. With one exception (see below), the remainder of these funds are being allocated to street overlays and rebuilds under the contract being recommended herein.

Areas to receive asphalt overlays or street rebuilds under this contract are shown in the attached figure. It should be noted that the following two streets were planned to be included in this year's work but have since been removed from the project scope of work for reasons summarized below:

- **Overlay of Bridges Drive and East Oak Grove East of Bear Lake Drive.** These reaches were planned to receive an asphalt overlay to add structure to the roadway similar to that done on Pavilion Drive in 2019. The primary driver for the overlay was insufficient pavement thickness in the original roadway, damage due to overwatering of decorative medians, and preparation of

this reach for the additional traffic it would see once the extension of East Oak Grove between Bridges Drive and 6700 Road is completed. This element of work is expected to cost approximately \$650k and will be deferred to a future MoveMo Street Maintenance Project due to budget limitations in this year's project.

- **Rebuild of South 3rd Street from Townsend to Cascade Avenues.** The 2022 MoveMo budget included \$400k for the rebuild of this reach of South 3rd where running between the Montrose Library and CMU's Cascade Hall. Since originally establishing this budget, there have been new developments in the area such as the City's purchase of 402 South 2nd, the likely expansion of CMU's quad, and a potential remodel/update of Cascade Hall by CMU. In order to ensure the project on South 3rd is complementary to these efforts, City staff are recommending that the improvements and funding for this reach of roadway be deferred to allow the City time to work with CMU, the public, and other stakeholder groups on a comprehensive design solution for the area. To help give a feel for some of the ideas that have been brainstormed at this stage, a concept drawing for a potential quad expansion into South 3rd Street is included as an attachment to this memo. This concept was prepared by the assistant public works manager Jackie Bubenik.

Project Bidding

Street maintenance project plans were prepared in-house by the City's engineering department and were put out to bid on April 1, 2022. Bids were publically received through video conference on April 21, 2022 and are summarized in Table 1 below. It should be noted that these bid totals include a 10% contingency.

TABLE 1		
Summary of Bid Results – Surface Treatments		
Contractor	Location	Bid Total
Mountain Valley Contracting	Grand Junction, CO	\$1,513,434.75
United Companies	Montrose, CO	\$1,839,666.62
Skip Huston Construction	Montrose, CO	\$1,894,072.41

The City has recent positive experience working Mountain Valley Contracting on numerous capital projects. The City's local preference policy would not change the outcome of bidding in this case.

The totals presented in the table were for the project as-bid. Due to budget limitations, City staff are recommending that the 10% project contingency (and scope if necessary¹) be reduced in order to stay within the \$1.43M of available budget.

Project Schedule and Traffic Control

With the exception of work around Pomona Elementary School which will be completed before school returns to session in the fall, the project will start mid-Summer and extend through the end of October.

¹ The bid form and contract for this project establish unit rates for all work elements (e.g., cost per ton of asphalt, cost per square yard of milling, etc) thus allowing the project to expand or contract if necessary to stay within the established budget.

Contract Award Consideration
MoveMo 2022 Street Maintenance
April 24, 2022

The nature of the project will require that roadways be closed to through traffic during the work. Access to local businesses and residences will still be available during these closures.

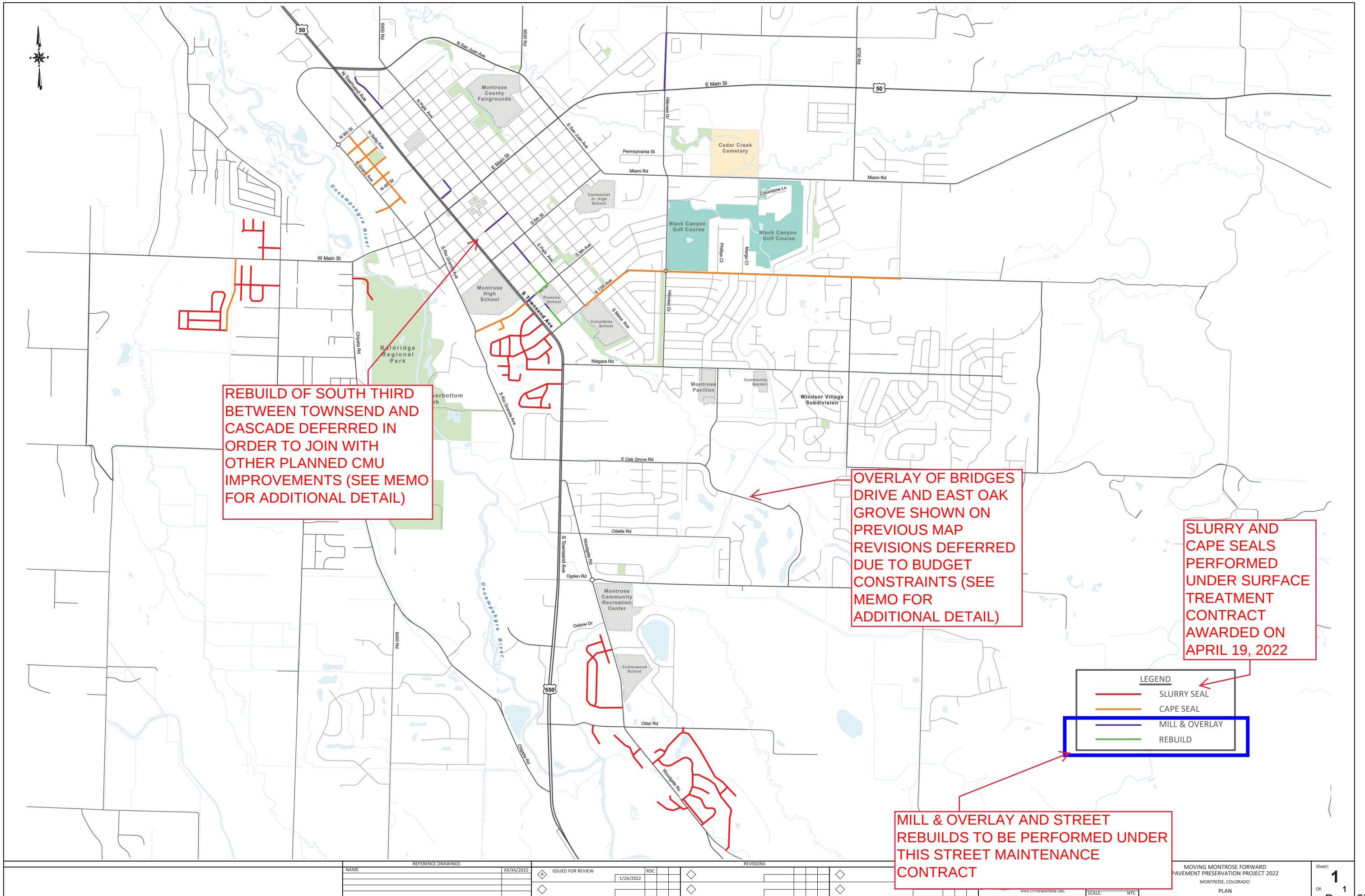
Contract Administration and Project Financials

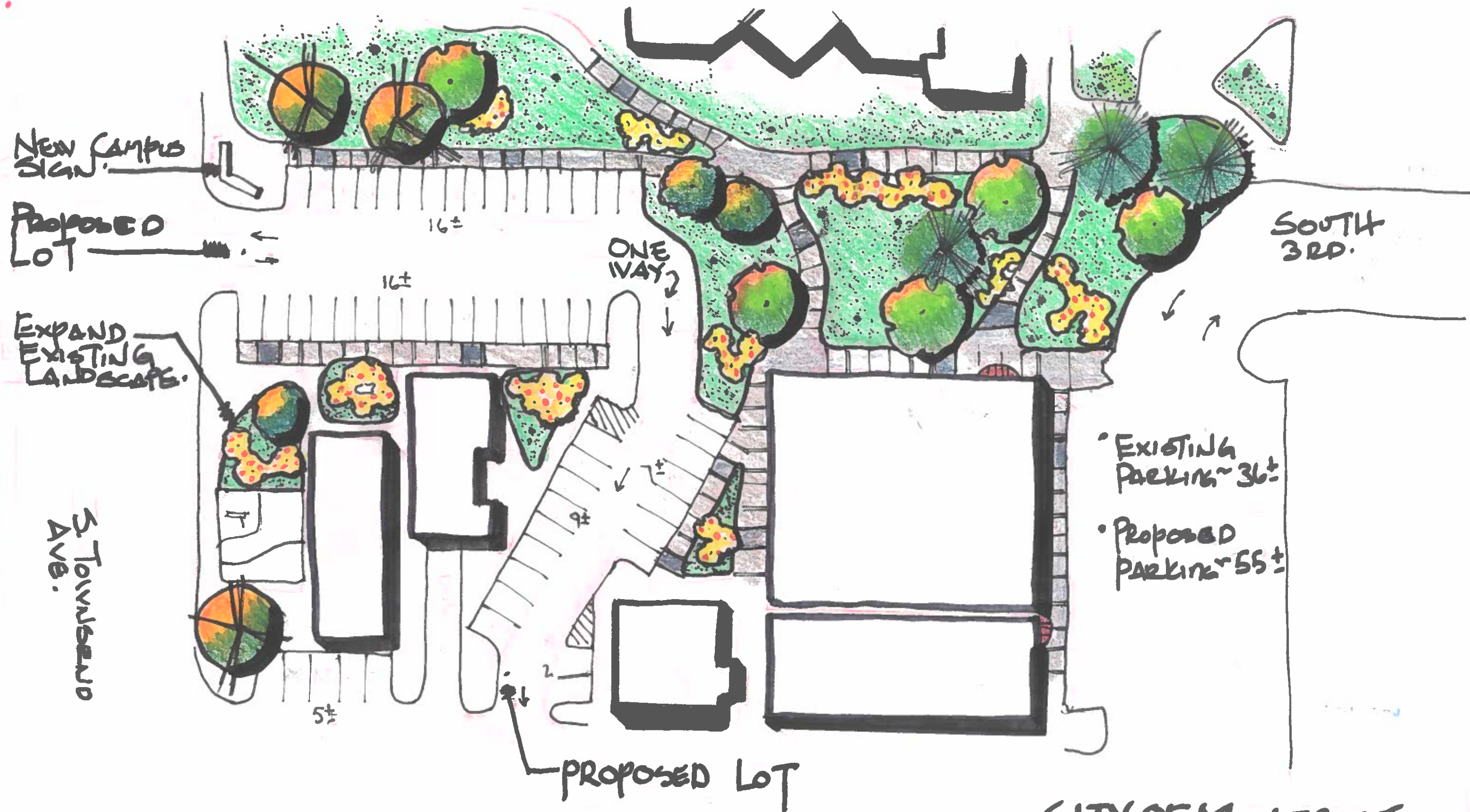
Contract administration, project management, and construction inspection will be performed by the City of Montrose engineering department.

The total budget for contracted street maintenance in 2022 is \$3.26M; the amount available for this street maintenance contract is summarized as follows:

Total MoveMo Contracted Street Maintenance Budget:	\$3,260,000
Less MoveMo Surface Treatment Contract (Awarded 4/19/22):	- \$1,428,079
Less South 3 rd Cascade to Townsend Deferral:	<u>- \$400,000</u>
TOTAL AVAILABLE FOR THIS CONTRACT (ROUNDED)	\$1,430,000

It should be noted that the budgets presented above are only for the contracted street maintenance project; in-house street maintenance performed by public works crews is included in a separate budget.





CITY OF MONTROSE
CMU CONCEPT PLAN
2.24.22

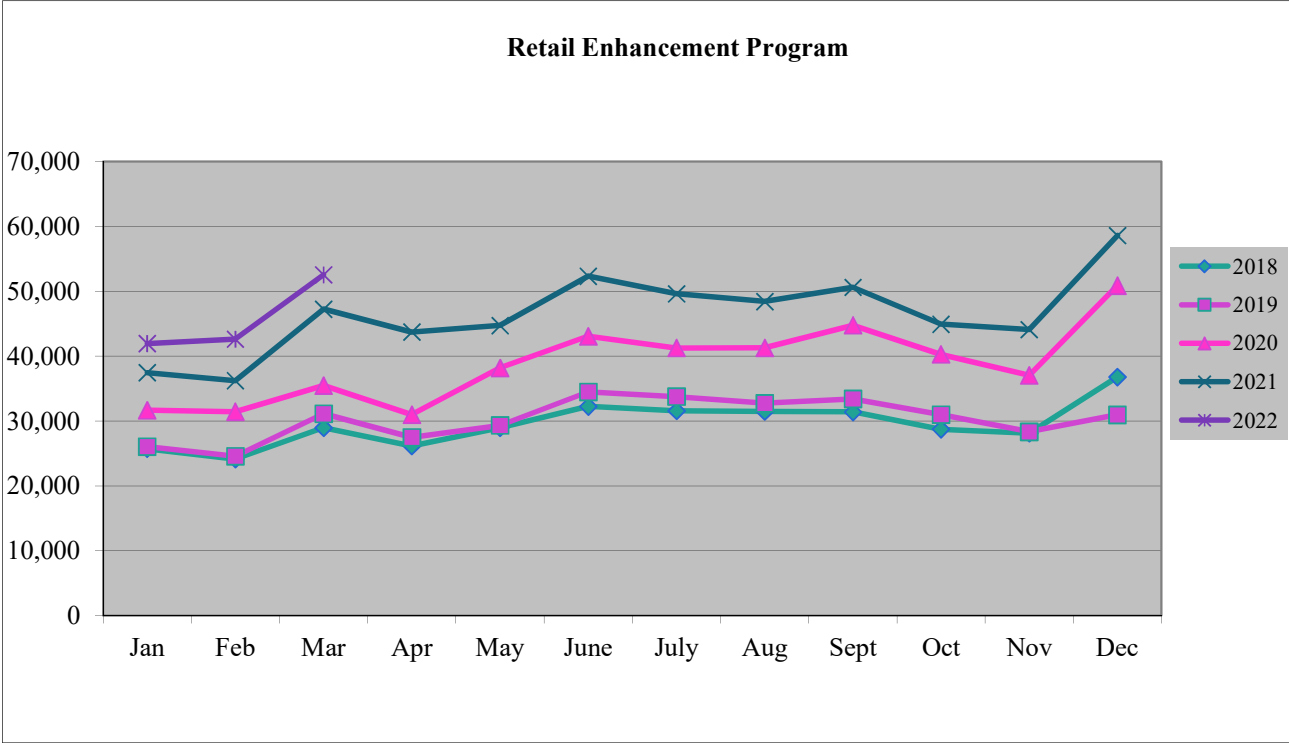
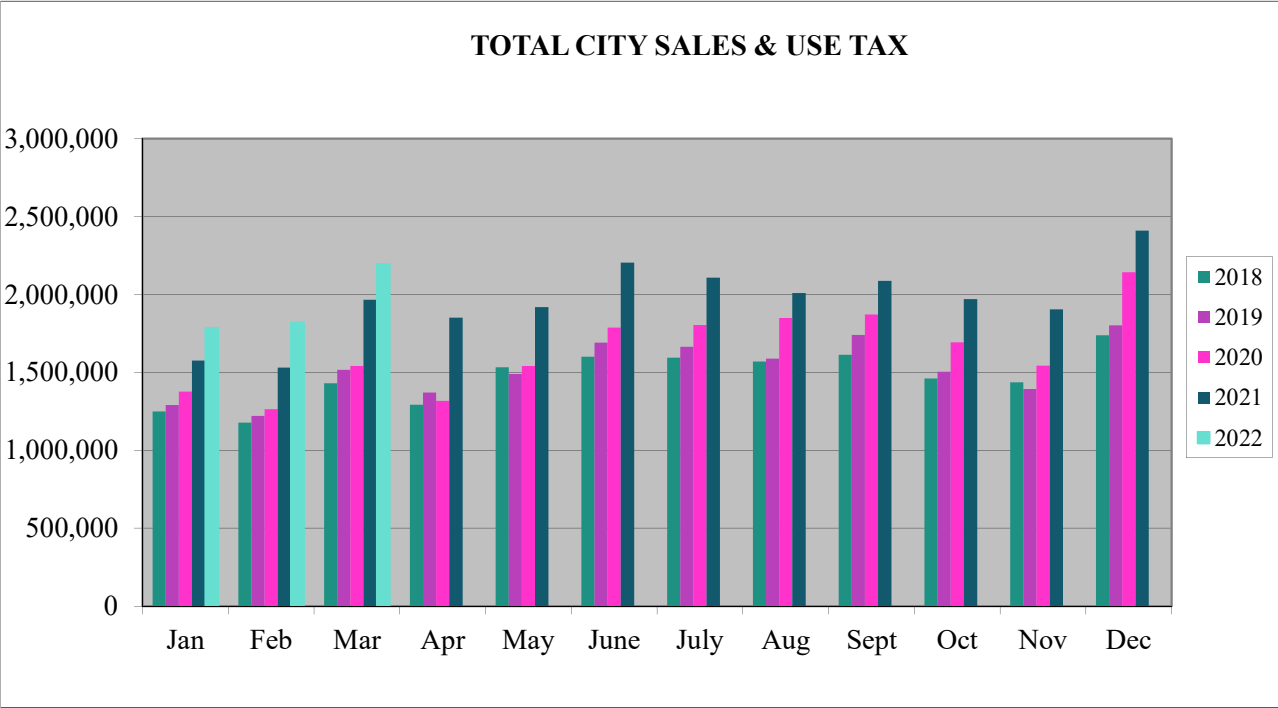
Scale: *1"=30'

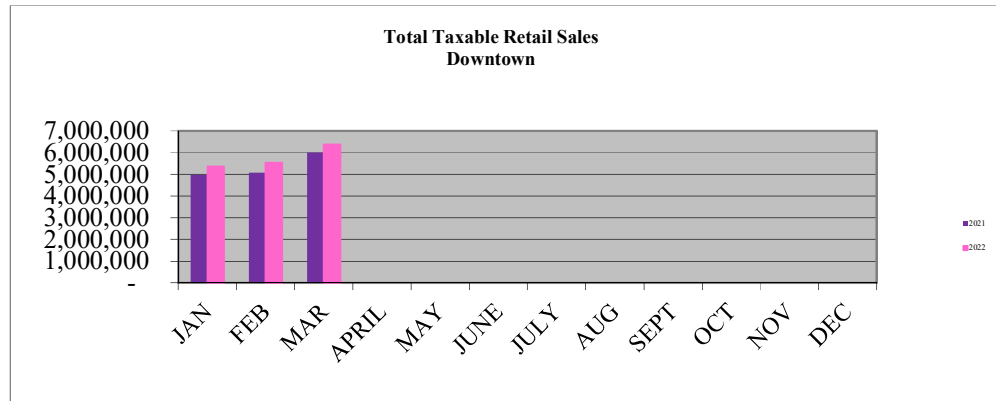
CITY OF MONTROSE
MONTHLY SALES, USE & EXCISE TAX REPORT

Date: May 11, 2022

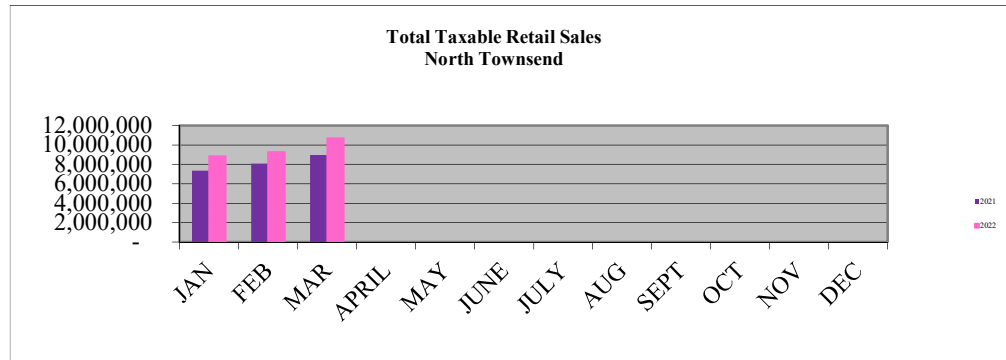
	Retail Sales Tax 3.0%			Construction Use Tax 3.0%			Use & Auto Tax 3.0%			Total Collected Sales and Use Tax			Sales and Use Budget	
Month	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Budget 2022	Budget Variance 2022
Jan	1,577,196	1,411,880	11.7%	105,404	56,829	85.5%	103,384	106,625	-3.0%	1,785,984	1,575,334	13.4%	1,373,456	30.0%
Feb	1,603,191	1,356,512	18.2%	86,060	62,892	36.8%	131,237	111,783	17.4%	1,820,488	1,531,187	18.9%	1,312,954	38.7%
Mar	1,983,226	1,774,652	11.8%	76,046	67,001	13.5%	134,920	124,961	8.0%	2,194,193	1,966,614	11.6%	1,312,954	67.1%
Apr														
May														
June														
July														
Aug														
Sept														
Oct														
Nov														
Dec														
YTD Total	5,163,613	4,543,044	13.7%	267,510	186,722	43.3%	369,541	343,369	7.6%	5,800,664	5,073,135	14.3%	3,999,364	45.0%

	PSST Retail Sales Tax 0.58%			PSST Construction Use Tax 0.58%			PSST Use & Auto Tax 0.58%			Total Collected PSST Sales and Use Tax			PSST Budget		Montrose Recreation District 0.3%		
Month	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Current Year 2022	Prior Year 2021	% of Increase/ Decrease	Budget 2022	Budget Variance 2022	Current Year 2022	Prior Year 2021	% of Increase/ Decrease
Jan	306,061	273,697	11.8%	20,501	11,422	79.5%	19,988	20,614	-3.0%	346,550	305,733	13.4%	265,395	30.6%	179,323	158,429	13.2%
Feb	311,225	263,661	18.0%	19,789	12,159	62.7%	25,373	21,611	17.4%	356,387	297,431	19.8%	258,006	38.1%	184,349	153,850	19.8%
Mar	385,493	344,978	11.7%	14,702	18,202	-19.2%	26,085	24,159	8.0%	426,280	387,339	10.1%	335,577	27.0%	220,486	200,342	10.1%
Apr																	
May																	
June																	
July																	
Aug																	
Sept																	
Oct																	
Nov																	
Dec*																	
YTD Total	1,002,779	882,336	13.7%	54,992	41,783	31.6%	71,445	66,385	7.6%	1,129,216	990,503	14.0%	858,978	31.5%	584,158	512,621	14.0%

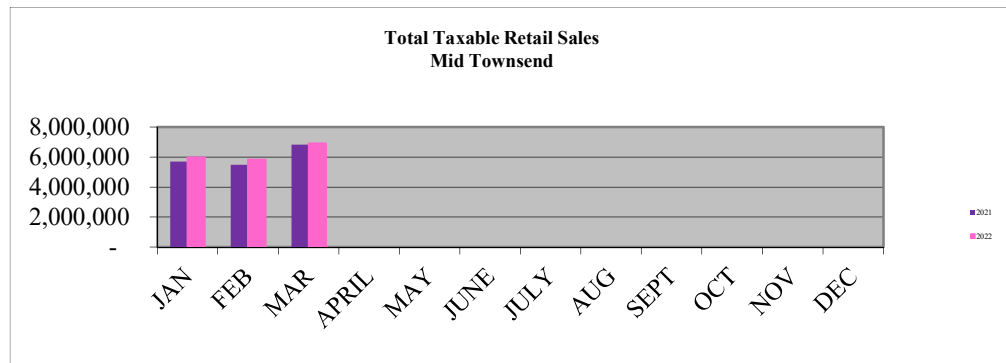




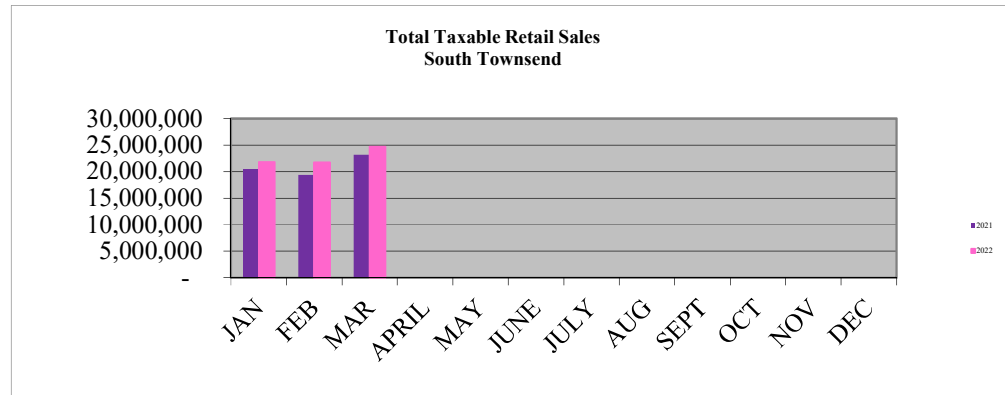
AREA 1: DOWNTOWN BOUNDARY



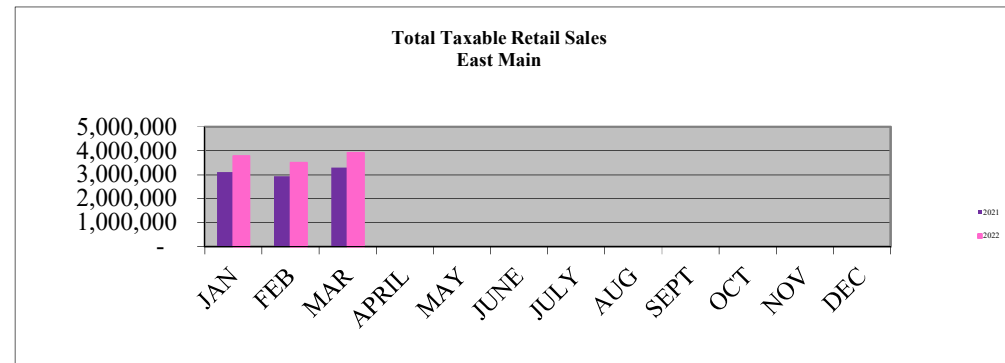
AREA 2: *NORTH CITY LIMIT TO NORTH 2ND STREET



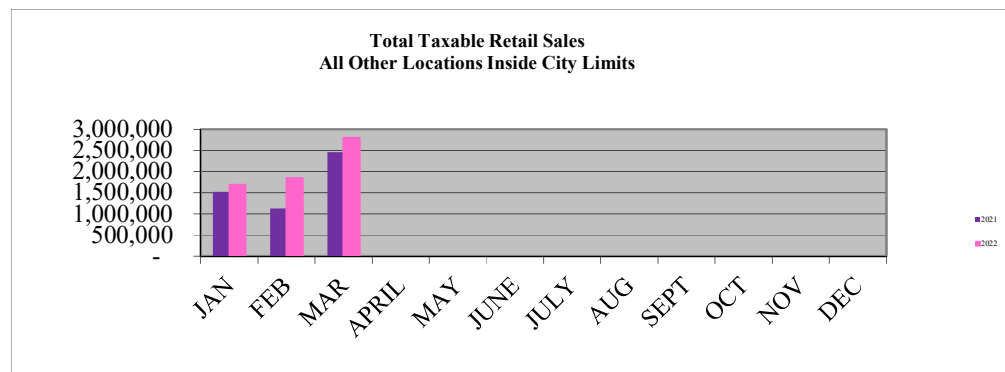
AREA 3: MID TOWNSEND SOUTH 2ND STREET TO E OAK GROVE RD



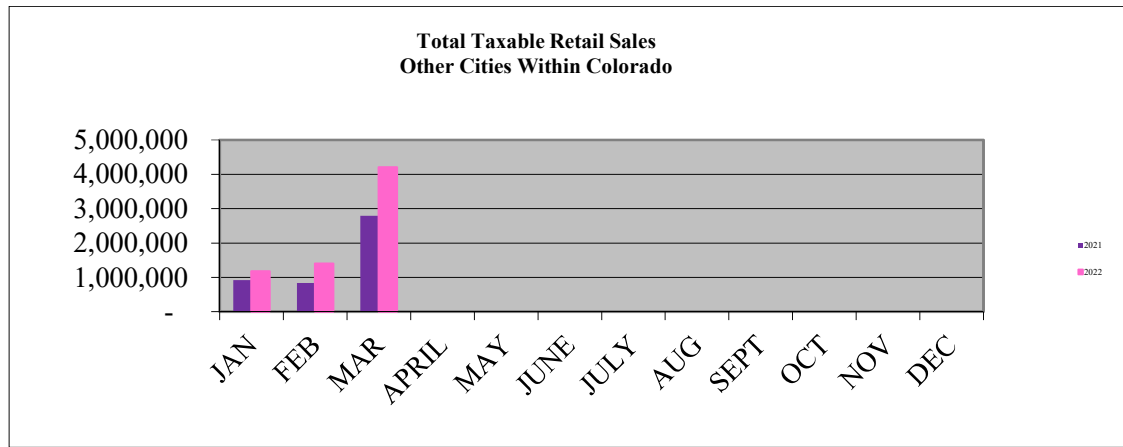
AREA 4: SOUTH TOWNSEND E OAK GROVE RD TO SOUTH CITY LIMIT



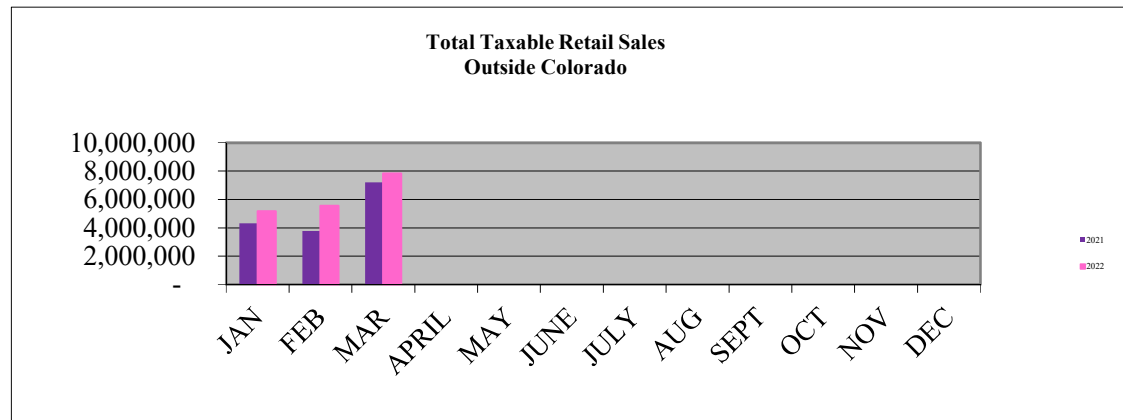
AREA 5: EAST MAIN SAN JUAN AVENUE TO EAST CITY LIMIT



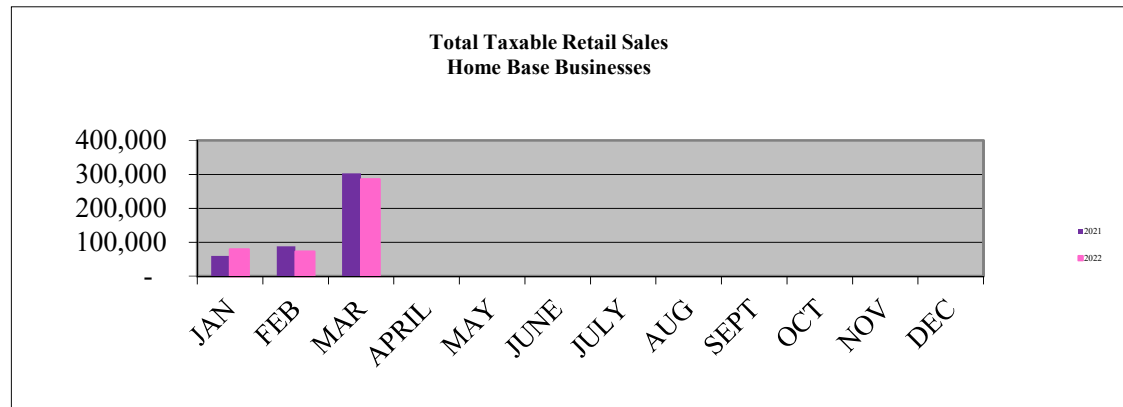
AREA 6: ALL OTHER LOCATIONS INSIDE CITY LIMITS OF MONTROSE



AREA 7: OTHER CITIES WITHIN COLORADO



AREA 8: OUTSIDE COLORADO



AREA 9: HOME BASE BUSINESSES

City of Montrose Quarterly Budget Report

First Quarter Ending March 31, 2022

May 17, 2022

The attached Financial Report represents **unaudited** revenues and expenditures as of the end of the first quarter of 2022 with a comparison to the budget.

The main operating fund of the city is the General Fund. Revenues have been collected at 26.7% and 20.5% of the expenditures has been expended. Sales and Use Taxes at 3% comprise more than 75% of the total revenue in the General Fund and no mill levy/property tax is assessed or collected. Compared to 2021 collections, retail sales tax collections and total sales and use tax collections increased 13.7% and 14.3% respectively.

On November 5, 2019, the voters approved an increase of .58% to the sales and use tax rate to fund public safety. Compared to 2021 sales and use tax for the Public Safety fund increased 14.0%. Public safety revenues have been collected at 26.1% and 15.2% has been expended in 2022.

On April 1, 2014 voter's approved an additional .3% sales and use tax to be collected by the city which has been used by the Montrose Recreation District to fund the new community recreation center on Woodgate Road. Collections for 2022 through March total \$584,158 which is a 14.0% increase over 2021 collections.

The following capital projects were budgeted in the Governmental Funds for 2022. These projects are all in process:

- New Public safety Building – 2022 is the final year of this multi-year project
- “Keep Montrose Moving” deferred maintenance projects
- Niagara/Hillcrest Roundabout Design, Hill Street Extension, 6700 Road Design, Reconstruction S. Third, General Sidewalk Replacement and ADA program
- Design for new Public Works and City hall facilities

	Revenues collected YTD compared to Budget for 2022	Expenses paid YTD compared to Budget for 2022
Water Fund	20.2%	26.6%
Sewer Fund	30.8%	9.5%
Trash & Recycling Fund	20.9%	13.3%
Black Canyon Golf Course	26.3%	14.6%

Water Fund Capital improvement projects include:

- Valve and hydrant replacement
- PRV upgrade and monitoring equipment
- Southeast Water Transmission Main
- Townsend Water line replacement

Sewer Fund Capital improvement projects include:

- Sewer rehabilitation/replacement
- Manhole rehabilitation & H2S lining
- Lift station elimination
- Townsend Sewer line replacement
- Motor Control Center Upgrade and Perimeter fencing at WWTP

This report is provided to give City Council an overall feel for how the city's funds are performing. Please contact Shani Wittenberg, Finance Director with any questions.

UNAUDITED

Treasurer's Report
March 31, 2022

Description	Checking	Savings	CD's	Total	**Restricted Funds	Available Totals
General Fund	5,731,138.58	12,122,112.85	3,074,207.10	20,927,458.53	297,605.27	20,629,853.26
Public Safety Fund	3,521,602.23	1,801,922.15		5,323,524.38		5,323,524.38
Retail Sales Enhancement	191,195.59	225,124.88		416,320.47	416,320.47	
Tourism	72,462.27	768.14	50,878.40	124,108.81	124,108.81	
Water Fund	409,931.94	4,119,436.76	656,088.81	5,185,457.51	-	5,185,457.51
Sewer Fund	519,826.24	1,508,284.70	1,171,606.67	3,199,717.61		3,199,717.61
Trash/Recycling Fund	141,193.51	463,204.25	-	604,397.76		604,397.76
Black Canyon Golf Course	281,553.76			281,553.76		281,553.76
Fleet Management Fund	434,099.82	1,599,727.49	529,135.42	2,562,962.73		2,562,962.73
Information Services Fund	-	-		-		-
Health/Dental Mgmt	501,545.32	2,579,585.35		3,081,130.67		3,081,130.67
Facilities Management Fund	-	-		-		-
Total Operating	11,804,549.26	24,420,166.57	5,481,916.40	41,706,632.23	838,034.55	40,868,597.68
Downtown Improvement	65,770.98	40,615.64	-	106,386.62	106,386.62	
Downtown Opportunity Loan	77,640.47			77,640.47	77,640.47	
Greater Montrose Loan	-	82,746.90		82,746.90	82,746.90	
Public Education Government	29,002.11	50,054.36	-	79,056.47	79,056.47	
Surplus & Deficiency Fund	13,810.62	-	51,056.29	64,866.91	64,866.91	
Conservation Trust	11,293.52	356,015.31		367,308.83	367,308.83	
Pavilion Capital	6,298.42			6,298.42	6,298.42	
Montrose Urban Renewal	(3,186,092.52)	-		(3,186,092.52)	(3,186,092.52)	
Special Benefit Fund	100,650.48	150,386.73	-	251,037.21	251,037.21	
2010 Excise Tax Bonds	489,782.11			489,782.11	489,782.11	
EDA Fireflow Loan	-			-	-	
Demoret Trust	2,161.90	25,053.94	302,027.06	329,242.90	329,242.90	
Cemetery Perpetual	3,665.99	116,057.73		119,723.72	119,723.72	
SID Revolving	27,037.73	-	153,513.62	180,551.35	180,551.35	
Grand/Rio Grande	1,385.08	1,185,795.39	249,680.88	1,436,861.35	1,436,861.35	
Capital Improvements	823,881.22	3,275,930.18	-	4,099,811.40	4,099,811.40	
Civic Campus Upgrades	-	-		-	-	
Total Non-Operating	(1,533,711.89)	5,282,656.18	756,277.85	4,505,222.14	4,505,222.14	
Grand Total	10,270,837.37	29,702,822.75	6,238,194.25	46,211,854.37	5,343,256.69	40,868,597.68

*CD's are available upon maturity.

**Restricted funds are in accordance with Council action, grant, State or Federal Mandate.

Savings Interest Rate .82%

CD Interest Rate Ave is 1.17% Range .96% to 1.70%

CITY OF MONTROSE
REVENUE & EXPENDITURE SUMMARY
as of March 31, 2022 - unaudited

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
GENERAL FUND					
REVENUE					
TAXES (SALES & FRANCHISE)	2,234,817	6,095,110	21,493,378	15,398,268	28.4%
LICENSES & PERMITS	86,210	397,464	571,482	174,018	69.5%
INTERGOVERNMENTAL REVENUES	51,860	144,598	3,652,790	3,508,192	4.0%
CHARGES FOR SERVICES	3,189	40,946	33,600	(7,346)	121.9%
PAVILION REVENUES	6,783	20,170	93,468	73,298	21.6%
BASEBALL REVENUES	-	-	18,077	18,077	0.0%
FINES & FORFEITURES	3,795	18,179	144,500	126,321	12.6%
LEASES & RENTAL OF CITY FACILITIES	6,898	218,796	78,680	(140,116)	278.1%
TRANSFERS FROM OTHER FUNDS	48,448	145,344	581,377	436,033	25.0%
INCOME FROM INVESTMENTS	-	682	20,100	19,418	3.4%
OTHER FINANCING SOURCES	1,983	5,950	24,300	18,350	24.5%
TOTAL REVENUE	2,443,983	7,087,241	26,711,752		26.7%
TRANSFER FROM RESERVES			1,493,619		
TOTAL REVENUE AND RESERVES	2,443,983	7,087,241	28,205,371		
EXPENDITURES					
CITY COUNCIL	33,486	66,524	167,425	100,901	39.7%
YOUTH COUNCIL	57	128	8,200	8,072	1.6%
ECONOMIC DEVELOPMENT & COMMUNITY PROG	-	159,213	3,285,000	3,125,787	4.8%
CITY ATTORNEY	21,917	58,305	454,193	395,888	12.8%
CITY MANAGER	35,200	84,906	374,886	289,980	22.6%
COMMUNICATIONS	9,593	28,284	134,596	106,312	21.0%
COMPETITIVE SPORTS	432	4,455	84,250	79,795	5.3%
HUMAN RESOURCES	48,220	115,011	471,490	356,479	24.4%
PAVILION	43,781	118,434	597,982	479,548	19.8%
GEOGRAPHIC INFORMATION SERVICE	22,410	63,751	357,845	294,094	17.8%
FINANCE	56,572	154,769	817,338	662,569	18.9%
MUNICIPAL COURT	20,731	56,348	263,940	207,592	21.3%
TEEN COURT	725	1,775	8,415	6,640	21.1%
PLANNING	22,688	62,191	368,657	306,466	16.9%
INNOVATION & COMM ENGAGEMENT	36,367	72,454	114,699	42,245	63.2%
CITY CLERK	22,703	61,672	313,967	252,295	19.6%
BUILDING	24,543	69,880	462,005	392,125	15.1%
ENGINEERING	25,039	75,357	389,130	313,773	19.4%
PUBLIC WORKS ADMIN	23,214	64,035	327,224	263,189	19.6%
STREETS	406,204	639,638	2,452,756	1,813,118	26.1%
STREET CLEANING	41,169	51,885	454,866	402,981	11.4%
PARKS	123,853	256,326	2,137,953	1,881,627	12.0%
TREE PROGRAM	1,711	1,711	30,000	28,289	5.7%
SUNSET MESA MAINTENANCE	15,504	40,095	141,220	101,125	28.4%
CEMETERY	4,483	13,325	187,457	174,132	7.1%
TRANSFERS TO PUBLIC SAFETY AND MRD	1,262,522	3,428,921	13,552,819	10,123,898	25.3%
INSURANCE AND GF FLEET LEASE	1,218	35,285	247,058	211,773	14.3%
TOTAL EXPENDITURES	2,304,415	5,784,681	28,205,371		20.5%
REVENUE OVER(UNDER) EXP.	139,568	1,302,561	-		

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
PUBLIC SAFETY FUND					
REVENUE					
SALES AND USE TAXES	426,280	1,129,827	4,017,826	2,887,999	28.1%
GRANTS	8,667	15,667	88,000	72,333	17.8%
CHARGES FOR SERVICES	7,202	18,571	83,420	64,849	22.3%
INSURANCE CLAIMS AND DONATIONS	641	40,853	44,300	3,447	92.2%
INTEREST INCOME	-	172	1,000	828	17.2%
TRANSFER FROM GENERAL FUND	681,022	2,043,065	8,195,061	6,151,996	24.9%
DRUG TASKFORCE	50	100	25,000	24,900	0.4%
TOTAL REVENUE	1,123,862	3,248,255	12,454,607		26.1%
TRANSFER FROM RESERVES	-		2,867,724		
TOTAL REVENUE AND RESERVES	1,123,862	3,248,255	15,322,331		
EXPENDITURES					
POLICE PATROL	444,928	1,517,485	9,116,198	7,598,713	16.6%
POLICE ADMINISTRATION	187,199	550,072	4,730,766	4,180,694	11.6%
DRUG TASKFORCE	26,266	88,887	422,224	333,337	21.1%
CODE ENFORCEMENT	2,621	15,655	125,594	109,939	12.5%
POLICE ACADEMY	9,368	34,852	210,927	176,075	16.5%
ANIMAL SERVICES	39,406	114,515	716,622	602,107	16.0%
TOTAL EXPENDITURES	709,789	2,321,467	15,322,331		15.2%
REVENUE OVER/UNDER EXP	414,073	926,789	-		
RETAIL SALES ENHANCEMENT FUND					
REVENUE					
TAXES	52,537	137,107	549,700	412,593	24.9%
GRANTS	-	-	17,500	17,500	0.0%
OTHER REVENUE	780	1,294	16,800		
TRANSFER FROM GENERAL FUND	4,045	12,136	48,542		
TRANSFER FROM RESERVES			35,293		
TOTAL REVENUE	57,362	150,536	667,835	430,093	22.5%
EXPENDITURES					
DART/BUSINESS OPERATIONS	36,415	96,660	558,684	462,024	17.3%
MONTROSE UNIVERSITY	137	775	12,800	12,025	6.1%
TOTAL EXPENDITURES	36,552	97,435	571,484	474,049	
REVENUE OVER(UNDER) EXP.	20,810	53,101	96,351		
OPPORTUNITY LOAN FUND					
REVENUE					
INTERGOVERNMENTAL REVENUES	-	-	-	-	
PRINCIPAL & INTEREST PAYMENTS	(634)	2,093	15,150	13,057	13.8%
TRANSFER FROM RESERVES			44,850	-	
TOTAL REVENUE	(634)	2,093	60,000	13,057	
EXPENDITURES					
DOWNTOWN OPPORTUNITY FUND	-	-	60,000	60,000	
REVENUE OVER(UNDER) EXP.	(634)	2,093	-		
PUBLIC/EDUCATION/GOVERNMENT					
REVENUE					
PEG FEE	904	29,934	16,000	(13,934)	187.1%
INTEREST INCOME	-	3	150	147	
TOTAL REVENUE	904	29,937	16,150	(13,787)	185.4%
TRANSFER FROM RESERVE	196	0	23,155		
TOTAL REVENUE AND RESERVES	1,100	29,937	39,305	-	76.2%
EXPENDITURES	991	50,603	39,305	(11,298)	128.7%
REVENUE OVER(UNDER) EXP.	108	(20,666)	-		

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
CONSERVATION TRUST FUND					
REVENUE					
LOTTERY REVENUE	35,238	35,238	100,000	64,762	35.2%
INCOME FROM INVESTMENTS	-	29	2,500	2,471	1.2%
TRANSFER FROM RESERVES			297,500		
TOTAL REVENUE	35,238	35,268	400,000	67,232	8.8%
EXPENDITURES					
CONSERVATION TRUST	3,914	3,914	400,000	396,086	
REVENUE OVER(UNDER) EXP.	31,325	31,354	-		
MURA - COLORADO OUTDOORS					
REVENUE					
INTERGOVERNMENTAL REVENUES	-	98,302	200,000	101,698	49.2%
INTEREST INCOME	-	-	1,000	1,000	0.0%
OTHER FINANCING SOURCES	-	-	-	-	
TOTAL REVENUE	-	98,302	201,000	102,698	
EXPENDITURES					
PROFESSIONAL FEES	1,595	6,083	440,000	433,918	
TRAIL DEVELOPMENT - RIVER	-	-	-	-	
UNCOMPAHGRE RIVER WORK	3,179	3,179	-	(3,179)	
BUSINESS DEVELOPMENT - PUBLIC IMP	2,325	3,884	-	(3,884)	
TOTAL EXPENDITURES	7,100	13,146	440,000	426,854	
REVENUE OVER(UNDER)EXP.	(7,100)	85,156	(239,000)	(324,156)	
SPECIAL BENEFIT FUND					
REVENUE					
GRANTS	-	-	-	-	
CHARGES FOR SERVICES	4,725	4,725	35,800	31,075	13.2%
DONATIONS FROM THE COMMUNITY	1,009	4,005	20,000	15,995	20.0%
INTEREST INCOME	-	3	100	97	3.3%
TRANSFER FROM RESERVE		-	32,168	-	
TOTAL REVENUES	5,734	8,733	88,068	47,167	9.9%
EXPENDITURES					
CARE OF ANIMALS	5,561	5,561	88,068	82,507	6.3%
SUNSET MESA IMPROVEMENTS	-	-	-	-	
TOTAL EXPENDITURES	5,561	5,561	88,068	82,507	6.3%
REVENUE OVER(UNDER) EXP.	173	3,172	-		
TOURISM PROMOTIONAL FUND					
REVENUE					
EXCISE TAX	60,920	158,761	617,500	458,739	25.7%
SPECIAL EVENTS	-	-	1,000	1,000	0.0%
VISITOR GUIDE AD/MERCHANDISE SALES	23,180	25,608	11,000	(14,608)	232.8%
INTEREST INCOME	-	2	1,000	998	0.2%
TOTAL REVENUE	84,100	184,371	630,500	446,129	29.2%
TRANSFER FROM RESERVES		116,275	-		
TOTAL REVENUE AND RESERVES	84,100	300,646	630,500		47.7%
EXPENDITURES					
MARKETING	34,151	102,130	387,834	285,704	26.3%
VISITOR CENTER OPERATIONS	3,635	11,426	103,751	92,325	11.0%
SPECIAL EVENT OPERATIONS	1,570	7,075	97,816	90,741	7.2%
SPORTS TOURISM	1,000	3,945	31,835	27,890	12.4%
TOTAL EXPENDITURES	40,356	124,576	621,236	496,660	20.1%
REVENUE OVER(UNDER) EXP.	43,744	176,070	9,264		

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
GENERAL DEBT SERVICE					
REVENUE					
OTHER FINANCING SOURCES	152,465	457,395	1,527,651	1,070,256	29.9%
EXPENDITURES					
2010 EXCISE TAX REVENUE BONDS	313,929	313,929	1,527,651	1,213,722	20.5%
REVENUE OVER(UNDER) EXP.	(161,464)	143,467	-		
CEMETERY PERPETUAL CARE FUND					
REVENUE					
CHARGES FOR SERVICES	-	-	1,500	1,500	0.0%
INCOME FROM INVESTMENTS	-	8	500	493	1.5%
TOTAL REVENUE	-	8	2,000	1,993	0.4%
EXPENDITURES					
CEMETERY PERPETUAL CARE	-	-	500	500	0.0%
REVENUE OVER(UNDER) EXP.	-	8	1,500		
SPECIAL IMPROVEMENTS REVOLVING					
REVENUE					
MONTHLY PRINCIPAL AND INTEREST	20,283	25,432	21,000	(4,432)	121.1%
INCOME FROM INVESTMENTS	-	36	3,000	2,964	1.2%
TOTAL REVENUE	20,283	25,468	24,000	(1,468)	
TRANSFER FROM RESERVES			-		
TOTAL REVENUE AND RESERVES	20,283	25,468	24,000		
EXPENDITURES					
COUNTY COLLECTION FEE	-	91	500	409	18.3%
APARTMENT WATER/SEWER INFRASTRUCTURE	-	-	-	-	
TOTAL EXPENDITURES	-	91	500	409	
REVENUE OVER(UNDER) EXP.	20,283	25,377	23,500		
CAPITAL and FACILITY IMPROVEMENT FUND					
REVENUE					
INTERGOVERNMENTAL REVENUES	-	16,593	208,000	191,407	
GRANT MATCH FROM OTHER ENTITIES	-	-	-	-	
INCOME FROM INVESTMENTS	-	217	6,500	6,283	3.3%
TRANSFER FROM GENERAL FUND	312,100	936,299	3,775,194	2,838,895	24.8%
TOTAL REVENUE	312,100	953,108	3,989,694	3,036,586	23.9%
TRANSFER FROM RESERVES		-	3,585,306	3,585,306	
TOTAL REVENUE AND RESERVES	312,100	953,108	7,575,000		
EXPENDITURES					
FACILITY IMPROVEMENTS	380	380	1,050,000	1,049,620	0.0%
CURB/GUTTER/SIDEWALK	-	-	195,000	195,000	0.0%
CAPITAL IMPROVEMENTS	237,884	415,234	6,070,000	5,654,766	6.8%
CONNECT TRAIL	-	-	260,000	260,000	
BALDRIDGE PARK IMPROVEMENTS	-	1,155	-	(1,155)	#DIV/0!
DOWNTOWN SALES TAX TIF	-	-	-	-	
TOTAL EXPENDITURES	238,264	416,769	7,575,000	7,158,231	5.5%
REVENUE OVER(UNDER) EXP.	73,836	536,339	-		

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
WATER FUND					
REVENUE					
INTERGOVERNMENTAL REVENUES	-	-	7,000	7,000	0.0%
WATER REVENUES	370,051	1,051,995	6,203,995	5,152,000	17.0%
WATER CAPACITY FEES	46,632	129,365	287,580	158,215	45.0%
INCOME FROM INVESTMENTS	-	1,639	5,000	3,361	32.8%
TOTAL REVENUE	416,683	1,183,000	6,503,575	5,320,575	20.2%
TRANSFER FROM RESERVES	581,681	1,305,388	2,862,305		
TOTAL REVENUE AND RESERVES	998,364	2,488,388	9,365,880	5,320,575	
EXPENDITURES					
RECORDS & COLLECTION	14,126	33,436	203,205	169,769	16.5%
WATER DIST & ADMIN	979,164	2,449,878	8,965,197	6,515,319	27.3%
WATER DEBT SERVICE	5,074	5,074	197,478	192,404	2.6%
TOTAL EXPENDITURES	998,364	2,488,388	9,365,880	6,877,492	26.6%
REVENUE OVER(UNDER) EXP.	(0)	(0)	1		
SEWER FUND					
REVENUE					
CHARGES FOR SERVICES	1,743	5,203	20,000	14,797	26.0%
SEWER REVENUES	263,025	764,334	3,097,000	2,332,666	24.7%
SEWER LEASE & CAPACITY FEES	149,363	390,177	641,258	251,081	60.8%
INCOME FROM INVESTMENTS	-	273	6,500	6,227	4.2%
TOTAL REVENUE	414,130	1,159,987	3,764,758		30.8%
TRANSFER FROM RESERVES	-	-	2,168,485		
TOTAL REVENUE AND RESERVES	414,130	1,159,987	5,933,243		
EXPENDITURES					
RECORDS & COLLECTION	583	5,208	36,077	30,869	14.4%
SEWER LINE MAINT & ADMIN	115,150	311,156	3,792,668	3,481,511	8.2%
SEWER TREATMENT	89,407	243,007	1,921,876	1,678,869	12.6%
INDUSTRIAL PRETREATMENT	-	-	21,050	21,050	0.0%
SEWER DEBT SERVICE	4,151	4,151	161,573	157,421	2.6%
TOTAL EXPENDITURES	209,291	563,523	5,933,243		9.5%
REVENUE OVER(UNDER) EXP.	204,839	596,464	-		
TRASH & RECYCLING FUND					
REVENUE					
CHARGES FOR SERVICES	189,171	477,605	2,125,000	1,647,395	22.5%
SALE OF SUPPLIES	187	1,092	3,000	1,908	36.4%
INCOME FROM INVESTMENTS	-	30	1,000	970	
TOTAL REVENUE	189,358	478,726	2,129,000		21.0%
TRANSFER FROM RESERVES	-	-	153,600		
TOTAL REVENUE AND RESERVES	189,358	478,726	2,282,600		
EXPENDITURES					
RECORDS & COLLECTION	479	6,050	44,522	38,472	13.6%
SANITATION OPER & ADMIN	118,246	296,899	2,238,078	1,941,179	13.3%
TOTAL EXPENDITURES	118,725	302,949	2,282,600	1,979,651	13.3%
REVENUE OVER(UNDER) EXP.	70,633	175,778	-		
BLACK CANYON GOLF COURSE					
REVENUE					
GOLF ROUNDS	39,049	59,289	254,600	195,311	23.3%
ANNUAL MEMBERSHIPS	23,610	123,825	118,500	(5,325)	104.5%
OTHER SALES	5,607	8,411	324,600	316,189	2.6%
TRANSFER FROM GENERAL FUND	54,892	164,675	767,414	602,739	21.5%
TOTAL REVENUE	123,157	356,200	1,465,114		24.3%
EXPENDITURES					
TURF MAINTENANCE OPERATIONS	26,450	49,800	671,137	621,337	7.4%
BUSINESS OPERATIONS/CLUBHOUSE	22,290	64,208	487,613	423,405	13.2%
RUSTY PUTTER RESTAURANT	25,225	55,241	306,364	251,123	
TOTAL EXPENDITURES	73,965	169,250	1,465,114	1,295,864	11.6%
REVENUE OVER(UNDER) EXP.	49,192	186,951	-		

	March	YTD ACTUAL	ANNUAL BUDGET	VARIANCE	% of Budget
INTERNAL SERVICE FUNDS					
REVENUE					
SHARED SERVICES	-	-	31,556	31,556	
CHARGES FOR SERVICE	-	-	2,498	2,498	
SALE OF ASSETS & EQUIPMENT USAGE	426,838	1,208,080	6,562,622	5,354,542	18.4%
INCOME FROM INVESTMENTS	-	181	6,000	5,819	
TOTAL REVENUE	426,838	1,208,261	6,602,676		18.3%
TRANSFER FROM RESERVE	60,939		6,792		
TOTAL REVENUE AND RESERVES	487,777	1,208,261	6,609,468		
EXPENDITURES					
FLEET MANAGEMENT	153,745	309,538	2,928,878	2,619,340	10.6%
INFORMATION SERVICES	187,934	366,033	2,022,920	1,656,887	18.1%
FACILITY MANAGEMENT	146,098	307,102	1,657,670	1,350,568	18.5%
TOTAL EXPENDITURES	487,777	982,672	6,609,468	5,626,796	
REVENUE OVER(UNDER) EXP.	0	225,589	-		
HEALTH & DENTAL MGMT FUND					
REVENUE					
WESTCO PREMIUMS	21,603	68,054	300,000	231,946	22.7%
REFUNDS & REBATES	-	0	510,000	510,000	0.0%
INCOME FROM INVESTMENTS	-	168	5,000	4,832	3.4%
FROM OTHER FUNDS WITHIN THE CITY	390,540	592,027	2,300,000	1,707,973	25.7%
TRANSFER FROM RESERVES		630,103	34,618		
TOTAL REVENUE	412,143	1,290,352	3,149,618		41.0%
HEALTH & DENTAL PREMIUMS & CLAIMS	422,402	786,407	3,149,618	2,363,211	25.0%
REVENUE OVER(UNDER) EXP.	(10,259)	503,944	-		