

APPENDIX A - ZONING ORDINANCE

Ord. No. 255

Adopted: June 13, 1995

The City of Montrose ordains:

Footnotes:

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Editor's note— *Printed herein is the Zoning Ordinance of the city, being Ordinance No. 255, as adopted by the city council on June 13, 1995. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.*

[ARTICLE 0.1.] - TITLE

An ordinance to regulate the use of land, natural resources and structures, to regulate structures designed for trade, industry, residence or other specified uses, to regulate and limit the height, the area, the size and location of structures hereinafter to be erected or altered, to regulate and determine the area of yards, courts, or other open spaces, to control congestion in the streets, to secure safety in case of fire, to prevent the overcrowding of land, to bring about the gradual conformity of the uses of land and buildings, and, for such purposes, to divide the city into districts and zones, to establish appeal procedures, to provide for the administration and enforcement of the provisions of this ordinance and to prescribe penalties for the violation thereof.

[ARTICLE 0.2.] - AUTHORITY

Pursuant to the authority conferred by Public Act No. 110 of 2006 as amended, the Michigan Zoning Enabling Act, MCL. 125.3101 et seq. of the state and for the purpose of promoting and protecting the public health, safety, peace, comforts, convenience and general welfare of the inhabitants of the City of Montrose by protecting and conserving the character and social and economic stability of the residential, commercial, industrial, and other use areas, by securing the most appropriate use of land, preventing over-crowding, and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, as well as by other means, all in accordance with a comprehensive plan.

(Ord. No. 427, § 1, 1-14-2016)

[ARTICLE 0.3.] - INTRODUCTION

Guide to using the zoning ordinance.

1. When you receive this zoning ordinance, write the date of receipt on [the] cover of [the] first page. Thereafter, refer to this date when asking the City of Montrose for any zoning ordinance amendments since you received your copy.
2. Refer to the separate adopted zoning district map, article 3, section 3.2 to determine the current zoning for the property in question.

3. You may want to check with the city's zoning administrator to verify the present zoning and any amendments to this ordinance which may apply to your particular district.
4. If you have any questions regarding a term, refer to the definition section, [article 2](#).
5. Review the chart on pages I-4 through I-6, [accompanying this introduction] which provides an overview of the uses permitted by right and uses requiring special land use approval in each district or refer to the more detailed list within each district (articles 4 through 10). Determine from the list of uses whether your proposed use is included as one of the following:
 - Principal use permitted. These uses are automatically allowed if you meet the requirements of site plan, parking, landscaping, signage, and other applicable sections. No public hearing is required. However, in most cases you will be required to submit a site plan.
 - Special land use. These uses require special review by the planning commission [now planning board—see Charter [§ 5-201](#)] to ensure that the use complies with the standards listed in [article 11](#). Special land use approvals require a public hearing before the planning commission [now planning board—see Charter [§ 5-201](#)]. Presentation of special land uses requests also requires a site plan.
 - [Options for listed permitted or special land uses.] If your proposed use is listed as either a permitted use or a special land use, you have several options, including:
 - a) Find a site in the city that is properly zoned for your intended use.
 - b) Request that the city rezone the property, which requires appearances before both the planning commission [now planning board—see Charter [§ 5-201](#)] and the city council and at least one public hearing.
 - c) If the use you propose is not listed, you can request that the zoning administrator or planning commission [now planning board—see Charter [§ 5-201](#)] give an interpretation on whether the proposed use falls within one of the listed uses. The zoning board of appeals has final authority on such interpretations.
6. Review the schedule of regulations, article 3, section 3.6. This table and its footnotes provide dimensional standards such as minimum lot size, building setbacks, maximum height, etc. within each zoning district. If you cannot meet a requirement, you may request a variance from the zoning board of appeals as described in [article 18](#), but must meet their [its] strict criteria for granting a variance (as listed on the application).
7. Refer to other sections of the ordinance which may apply:
 - [Article 15](#), General provisions - contains general standards for items (check the Table of Contents for a list) that apply to all or most of the districts.
 - [Article 12](#), Review and approval procedures - there is a detailed list of items which must be included on your site plan. [Article 12](#) also lists the procedure for site plans review and condominium review and the standards the planning commission [now planning board—see Charter [§ 5-201](#)] will use for approval.
 - [Article 14](#), Sign standards - provides standards for the number, type, size, and location of signs.
 - [Article 16](#), Landscaping standards - three types of landscaping may be required: 1) a buffer area from adjacent uses, 2) landscaping along the street frontage and 3) landscaping within a parking lot. There are also standards for screening dumpsters.
 - [Article 17](#), Nonconforming uses and structures (if applicable) - provides limits on what you can do if your use or structure is not conforming with the standards of this ordinance.

8. You may want to consider preparing a preliminary (conceptual) site plan to obtain reaction and comment from the planning commission [now planning board—see Charter [§ 5-201](#)] before you prepare the more expensive drawings required for site plan approval. A preliminary site plan may save you time and money by minimizing redrawing.
9. In some cases, the planning commission [now planning board—see Charter [§ 5-201](#)] or city council may request a traffic study, environmental study, market study, etc. to assist in analyzing your project. Early informal meetings, conceptual plans and/or discussions with city staff may alert you of the need for additional information.
10. The approval process for various submittals (site plan review, condominium review, special land use permits, zoning ordinance amendments and rezonings) is outlined [beneath the following table]. When a public hearing is required, you should plan on attending the meeting where your proposal will be discussed, or have someone represent you, to respond to questions.

General listing of permitted uses and special land uses.

P = Permitted Uses S = Special Land Uses							
Principal Use	SF1	SF2	MFR	MPH	CBD	GBD	IND
Single-family dwellings	P	P					
Two-family homes (duplex)		S	P				
Manufactured homes (duplex)	P	P	P	P			
Multi-family homes			P				
Second story apartments					P		
Mobile homes	P	P	P	P			
Senior housing		S	P		S		
Home occupations	S	S	S	S			
Churches	S	S	S		P	P	
Public parks	S	S			P	P	P
Public buildings and uses	S	S	S		P	P	P
Public and private schools	S	S	S				
Essential public services	P	P	P	P	P	P	P

Professional offices					P	P	
Medical offices					P	P	
Clinics, veterinary					P	P	
Banks (no drive-through)					P	P	
Banks (with drive-through)					S	S	
Funeral homes					P	P	
State residential care facilities	P	P	S				
Foster care home	P	P	S				
Bed and breakfast	S	S	S		P		
Child care services	S	S	S		S	S	
Extraction operations							S
Tool and die machine shops							S
Junkyards							S
Retail businesses					P	P	
Auto service stations					S	S	
Personal service establishments					P	P	
Restaurants (no drive-through)					P	P	
Restaurants (with drive-through)					S	S	
Theaters					P	P	
Auto engine repair shops							P

Auto body and repair shops							S
Newspaper office and printing facilities					P	P	
Warehouse/storage (connected to another use)					P	P	P
Auto, RV, trailer sales (outdoor)						S	
Car wash (automatic/self-service)						S	
Recycling centers							P
Laundry and dry-cleaning establishments (retail)					P	P	
Kennels							P
Greenhouse, garden centers						S	
Lumberyard and building supplies						S	
Warehousing, wholesaling, processing and manufacturing (enclosed area)							P
Industrial plating and machinery facilities							S
Automobile repair service facilities						S	
Video rental businesses					P	P	
Convenience stores without gasoline services					P	P	

Convenience stores with gasoline services					S	S	
Adult entertainment						S	
24-hour banking centers					P	P	

Outline of approval process.

Site plan review (article 12).

- *Step 1.* Preapplication reviews with city staff and planning commission [now planning board—see Charter § 5-201] (optional).
- *Step 2.* Submittal of site plan, application form, and fee to city clerk.
- *Step 3.* Reviews by city staff.
- *Step 4.* Planning board review and final action.

Special land use permits (article 11).

- *Step 1.* Preapplication reviews with city staff and planning commission [now planning board—see Charter § 5-201] (optional).
- *Step 2.* Submittal of site plan, application form, and fee to city clerk.
- *Step 3.* Reviews by city staff.
- *Step 4.* Planning commission [now planning board—see Charter § 5-201] review, public hearing, and final action.

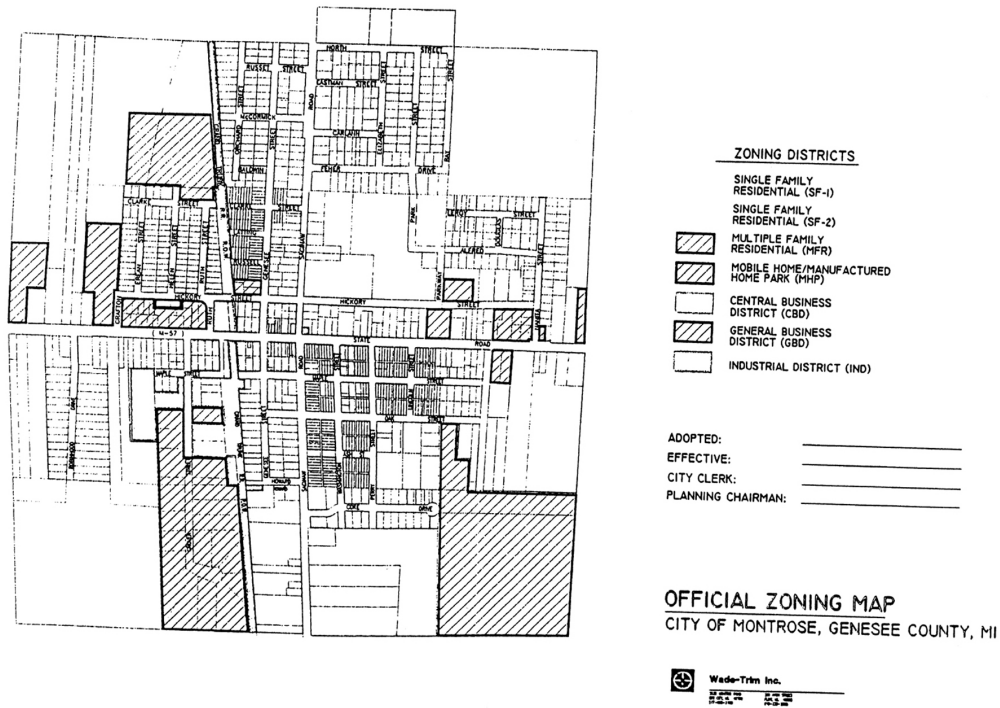
Condominium plan review (article 12).

- *Step 1.* Notice pursuant to section 71 of Public Act No. 59 of 1978, as amended [MCL 559.171], provided to the city.
- *Step 2.* Submittal of condominium plan, application form, and fee to city clerk.
- *Step 3.* Reviews by city staff.
- *Step 4.* Planning commission [now planning board—see Charter § 5-201] review and final action.

Zoning ordinance text amendments and rezonings (article 19).

- *Step 1.* Preapplication reviews with city staff and planning commission [now planning board—see Charter § 5-201] (optional).
- *Step 2.* Submittal of application form, and fee to city clerk.
- *Step 3.* Reviews by city staff.
- *Step 4.* Planning commission [now planning board—see Charter § 5-201] public hearing review, and Recommendation.
- *Step 4 [5].* City council public hearing review, and final action.

Official zoning map



ARTICLE 1. - PURPOSE AND SCOPE

Sec. 1.1. - Purpose.

This ordinance is intended and designed to regulate the use of land and structures, and to accomplish all of the following: to promote the public health, safety, and welfare, to insure [ensure] that the use of land shall be situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs, to encourage the use of lands and natural resources in the city in accordance with their character and adaptability, to limit the improper use of land, to provide for the orderly development of the city, and to reduce hazards to life and property. It is the intention of the City of Montrose that this ordinance implement the planning goals and objectives adopted by the planning commission [now planning board—see Charter § 5-201] as reflected in the comprehensive development plan and other planning documents.

State Law reference— Purposes of zoning ordinances, MCL 125.581.

Sec. 1.2. - Scope.

1. Where any provision of this ordinance imposes either greater or lesser restrictions, limitations, conditions, standards or requirements upon (1) the use of buildings, structures or land, (2) the height of buildings or structures, (3) lot coverage, (4) lot areas, (5) yards or other open spaces, or (6) any other use, activity, or conduct which is regulated by this ordinance, than any comparable restriction, limitation, condition or requirement contained in any other provision of this ordinance or any other ordinance, law or regulation, the provision which is more restrictive or limiting, or which imposes the higher condition, standard, or requirement shall govern.
2. This ordinance shall not abrogate or annul any easement, covenant or other private agreement. Where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement,

covenant, or other private agreement, the provision of this ordinance shall govern.

3. Zoning applies to every building, structure, or use. No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with this ordinance.
4. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety, and welfare.

Sec. 1.3. - Repeal of prior ordinance.

Ordinance No. 88 and all amendments thereto, and all prior zoning ordinances of the City of Montrose are hereby repealed effective coincident with the effective date of this ordinance. The repeal of said ordinances shall not have the effect to release or relinquish any penalty, forfeiture, or liability incurred under said ordinances, or any part thereof, and such ordinances shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty, forfeiture, or liability.

ARTICLE 2. - DEFINITIONS

Sec. 2.1. - Construction of language.

The following rules of construction shall apply to the text of this ordinance:

1. Except with respect to the headings contained in section 2.2, the headings which title a chapter, section, or subsection of this ordinance are for the purpose of convenience only and are not to be considered in any construction or interpretation of this ordinance, or as enlarging or restricting any of its terms and provisions in any respect.
2. The illustrations contained within this ordinance are intended to illustrate hypothetical applications of the provisions which refer to them, and shall not have the effect of enlarging or restricting the terms and provisions which refer to them, nor shall they be applicable to other provisions of this ordinance which do not refer to them. In the event of any conflict between the provisions of the written text of this ordinance and the illustrations, the text shall govern.
3. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the singular number shall include the plural number and words in the plural number shall include the singular number.
4. The word "shall" is always mandatory and not merely discretionary. The word "may" is permissive.
5. A "building" or "structure" includes any part thereof.
6. The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or a combination of any of them as well as a natural person.
7. The words "used" and "occupied," as applied to any land, building, or structures, shall be construed to include the phrases, "intended to be," "arranged to be" or "designed to be" used or occupied.
8. The words "erected" or "erection," as applied to any building or structure, shall be construed to include the words "built," "constructed," "reconstructed," "moved upon," or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed, or moved upon, such as

excavation, filling, drainage, or the like.

9. The particular shall control the general.
10. Terms not herein defined shall have the meanings customarily accepted.

Sec. 2.2. - Definitions.

For the purpose of their use in this ordinance, the following terms and words are hereinafter defined:

Accessory building. A building or structure, or a portion thereof, supplementary and/or subordinate to a main building or structure on the same lot, occupied by or devoted exclusively to an accessory use.

Accessory use. A use which is clearly incidental to, customarily found in connection with, serves the principal use of structure, and (except as may be permitted in the case of accessory off-street parking spaces or loading/unloading zones, etc.) located on the same zoning lot as the principal use to which it is related.

Adult foster care facility. A governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis [but] who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

Adult foster care family home. A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks, the adult foster care family home licensee must be a member of the household and an occupant of the residence.

Adult foster care large group home. A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

Adult foster care small group home. A facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

Automobile service station. A building and premises wherein gasoline, oil, grease, tires, batteries, and other automobile supplies and accessories may be sold at retail and installed, and where minor services may be rendered, not to include the following:

1. Major mechanical and body work, such as straightening of body parts, painting and refinishing.
2. Storage of damaged automobiles not in operating condition, except those awaiting immediate service.
3. Other work creating noise, glare, fumes, or smoke.

Basement. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling (see Figure 1 [located at the end of this section]).

Bed and breakfast establishment. A single-family dwelling in which transit guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

Block. The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or live stream, or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

Board of appeals. The term "board of appeals" refers to the City of Montrose zoning board of appeals.

Buildable area. The buildable area of a lot is the space remaining after the minimum open space requirements of this ordinance have been compiled with.

Building. Any structure which is erected having a roof supported by columns or walls which is used or erected for the shelter or enclosure of persons, animals, or personal property or for carrying on business activities or other similar uses.

Building height. The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof (see Figure 2 [located at the end of this section]).

Building line. A line formed by the face of the building, and for the purposes of this ordinance, a building line is the same as a front setback line.

Building permit. A building permit is the written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a facility in conformity with the provisions of this ordinance.

Canopy. A nonrigid fabric marquee or awning-type structure which is attached to a building by a supporting framework, which may include a business identification message, symbol, and/or logo. If over a sidewalk, it may not use supporting poles.

Car wash. An area of land and/or structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

Child care facility. A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or adult care facilities in which a child has been placed.

Cluster development. A development design technique that concentrates buildings in specific locations on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Conditional use. See "special land use."

Condominium Act. Refers to Michigan Public Act No. 59 of 1978 [MCL 559.101 et seq.], as amended.

Condominium conversion. A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

Condominium master deed. The condominium document recording the condominium project as approved by the zoning administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Condominium project. Equivalent to "subdivision" as used in subdivision regulations.

Condominium project, mobile home. A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Condominium setbacks. Measured as follows:

- A. *Front yard setback.* The distance between the street centerline and the unit site.
- B. *Side yard setback.* The distance between the limits of the development and the side of a unit or the distance between the sides of any adjacent units.
- C. *Rear yard setback.* The distance between the limit of the development and the rear of the unit or the distance between the rear of any two adjacent units.

Condominium subdivision plan. The site, survey and utility plans, and sections showing the existing and proposed structures and improvements including the location thereof on the land. The plan shall follow and show all aspects as required under the Condominium Act.

Condominium unit. The portion of the condominium project designed and intended for separate ownership as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Condominium unit site. The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot," for the purposes of determining compliance of a site condominium subdivision with provisions of the section pertaining to minimum lot size, minimum of width, maximum lot coverage and maximum floor area ratio.

Congregate housing. A residential facility for four or more elderly persons within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments and counseling.

Convalescent or nursing home. A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing, and medical care.

Council. The term "council" refers to the city council of the City of Montrose.

Development. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

District. A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Dwelling, mobile home. A detached residential dwelling unit with a body width greater than eight feet, of not less than 40 feet in length, and designed for transportation, after fabrication, on streets or highways, on its own wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. A mobile home shall not be considered a travel trailer, motor home, or any other type of recreational vehicle. In addition, mobile homes which do not conform to the standards for one-family dwellings, of this ordinance, shall not be used for dwelling purposes within the city unless located within a mobile home park.

Dwelling, multiple-family. A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth for one-family dwellings.

Dwelling, one-family. A building designed exclusively for one family for residential use.

Dwelling, two-family. A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth for one-family dwellings.

Dwelling unit. A building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking and sanitary facilities.

Dwelling unit, manufactured. Is a dwelling unit which is substantially built, constructed, assembled, or finished off the premises upon which it is intended to be located.

Dwelling unit, site built. Is a dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site built dwelling units shall include dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

Easement. A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Essential public services. A public utility or municipal departments utilizing underground, surface or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication supply, or disposal systems, but not including buildings.

Excavation. Any breaking of ground, except common household gardening and ground care.

Family. A single individual doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking, and living together upon the premises or a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bonds distinguished from a group occupying a boardinghouse, lodginghouse, club, fraternity, or hotel.

Family day care home. A private home in which one but less than seven minor children are received for care and supervision for periods less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Family foster care home. A private home in which more than four but less than seven minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Fence. A structure intended as a barrier to property ingress or egress which may serve as a screen for objectional vistas, a screen from noise, and/or as a decorative adornment.

Floor area, gross. For the purpose of computing the required number of parking spaces, the sum of the horizontal areas of each story of a building, measured from the interior faces of the exterior walls and the centerlines of interior walls, exclusive of mechanical areas, elevator shafts, stairwells and vent shafts for more than one floor and uninhabitable attics or basements having headroom of seven feet or less.

Floor area, residential. For the purpose of computing the floor area of a residential dwelling unit, the sum of the horizontal areas of each story of a dwelling unit, measured from the interior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, carports, breezeways and enclosed or unenclosed porches.

Frontage. The minimum width required in a use district which abuts a public right-of-way or private road.

Garage, private. An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage, service. Any premises used for the storage or maintenance of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

Gasoline service station. A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

Grade. The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building, measured at a distance four feet out from the edge of the building (see Figure 3 [located at the end of this section]).

Greenbelt. A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this ordinance.

Group day care home. A private home in which six but not more than 12 minor children are received for care and supervision for periods less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Health care facility (hospital). A facility or institution, whether public or private, principally engaged in providing services for health maintenance and diagnosis and treatment of human disease, pain, injury, deformity or physical condition, allowing overnight stay, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital, chronic disease hospital, maternity hospital.

Home occupation. A gainful occupation traditionally and historically conducted in a dwelling unit as an activity clearly incidental and secondary to the use of the building as a dwelling unit.

Kennel. Any lot or premises on which three or more dogs, cats, or other household pets are either permanently or temporarily boarded.

Lot. A parcel of land occupied or intended to be occupied by a building and any accessory buildings, or by any other use or activity permitted including the open spaces and yards required under this ordinance.

Lot area. The total horizontal area within the lot lines of a lot.

Lot, corner. A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the curve is of less radius than 150 feet, and the tangents to the curve, at the two points where the side lot lines meet the curve form an interior angle of less than 135 degrees (see Figure 4 [located at the end of this section]).

Lot coverage. A part or percent of a lot occupied by buildings or structures.

Lot depth. The arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line (see Figure 5 [located at the end of this section]).

Lot lines.

- A. *Front lot line.* In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the line separating such lot from such right-of-way (see Figure 6 [located at the end of this section]).
- B. *Rear lot line.* That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (see Figure 6 [located at the end of this section]).
- C. *Side lot line.* Any lot line not a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (see Figure 6 [located at the end of this section]).
- D. *[Lots to which items A, B, or C above do not apply.]* In the case of a lot fronting on right-of-way on two or more sides, or other case in which the above definitions do not apply, the zoning administrator shall designate front, rear and side lot lines, based on the following considerations:
 1. Location and orientation of existing or proposed buildings on the lot in question, in relation to existing buildings on properties in the same general neighborhood.
 2. Location and effect of vegetation, water, or other natural features affecting location of buildings or structures on the lot in question.

Lot of record. A lot whose legal description is recorded in the office of the register of deeds for the County of Genesee, State of Michigan, as a part of a plat or subdivision or by metes and bounds.

Lot width. The horizontal distance between side lot lines measured parallel to the front lot line at the front setback line (see Figure 6 [located at the end of this section]).

Mezzanine. An intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

Miniwarehouse (self-storage facility). A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares.

Mobile home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit.

Mobile home park. A parcel of land which has been planned and improved for the placement of mobile homes for residential use.

Motor home. A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

Nonconforming building or structure. A building or structure lawfully existing on the effective date of this ordinance, or amendments thereto, which does not conform to the regulations of the zoning district in which it is located pertaining to minimum lot area, minimum lot width, minimum residential floor area, required yards or maximum building height.

Nonconforming use. A lawful use of a building, structure or land lawfully in existence on the effective date of this ordinance, or amendments thereto, which no longer conforms to the use regulations of the zoning district in which it is located.

Nursing home. A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Public Act No. 152 of 1885 [MCL 36.1 et seq.], as amended, which provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

Occupied. The word occupied includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

Off-street parking facility. A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Open air business use. An open air business use, as used herein, shall be deemed to include any business when said business is not conducted from a wholly enclosed building.

Open storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

Parking space. An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Porch. A projection on a building or structure containing a floor, which may be either totally enclosed or open.

Principal use. The primary or predominant use to which the premises are devoted and the principal purpose for which the premises exist.

Private road. Any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties.

Quarry excavation. [A quarry excavation] shall mean the breaking of the ground to hollow out by cutting or digging or removing any soil, rock matter, sand, or gravel intended to be removed from the property.

Recreational vehicle. A vehicle which moves one or more persons over the ground, air, water, ice, or snow, and which is either self-propelled or connects to a vehicle which is self-propelled.

Restaurant.

- A. *Standard restaurant.* A standard restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes the consumption of food on the premises.
- B. *Carryout restaurant.* A carryout restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation encourages the consumption of food off-site but may permit incidental consumption on the premises.
- C. *Drive-in/drive-through restaurant.* Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design [or] method of operation includes one or both of the following characteristics:
 - 1. Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop, or by other means which eliminate the need for the customer to exit the motor vehicle.
 - 2. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, within the restaurant building, or at other facilities on the premises outside the restaurant

building, is permitted.

Right-of-way. A line running parallel with and measured from the centerline of the street to a point on the property designated and determined by the city's engineers. In most cases, this line would run parallel with and one foot inside of the inside edge of the sidewalk.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, stairways, hallways, and storage. Plans presented showing one, two, or three bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Rummage sale (garage). A sale or offering of more than five items of new or used merchandise, clothing, household goods, rummage, or other personal property on premises not zoned for such sale. Any sale which meets the requirements of this ordinance shall be deemed to be a rummage sale regardless of the name or designation placed upon such sale by the person or persons conducting same.

Satellite dish antenna. A parabolic, spherical or similarly shaped antenna used for reception of communications signals transmitted from a satellite in a planetary orbit.

Screen. A structure such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

Setback. The distance required to obtain minimum front, side, or rear yard open space provisions of this ordinance.

Sexually oriented businesses. Establishments which include but are not limited to:

1. *Adult arcade.* Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
2. *Adult bookstore or adult video store.* A commercial establishment that, as one of its principal business purposes, offers, for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35 percent or more of yearly sales volume or occupies more than 35 percent or more of the floor area or visible inventory within the establishment.

3. *Adult cabaret.* A nightclub, bar, restaurant or similar commercial establishment that regularly features:

- a. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
 - b. Films, motion pictures, videocassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - c. Persons who engage in lewd, lascivious or erotic dancing or any performance that is intended for the sexual interest or titillation of an audience or customers.
4. *Adult motel.* A hotel, motel or similar commercial establishment that:
- a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above;
 - b. Offers a sleeping room for rent for a period of time that is less than 12 hours; or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 12 hours.
5. *Adult motion picture theater.* A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, videocassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
6. *Adult theater.* A theater, concert hall, auditorium, or similar commercial establishment that regularly features live performances that are characterized by exposure of specified sexual activities or specified anatomical areas.
7. *Escort.* A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.
8. *Escort agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.
9. *Nude model studio.* Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.
10. *Sexual encounter center.* A commercial establishment that, as one of its principal business purposes, offers for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is exposing specified anatomical areas.

Sign. Is a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. Signs include, but are not limited to, figures, devices, pennants, emblems and

pictures. Any of the above which is not placed out of doors, when placed near the inside surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists and pedestrians, shall also be considered as a sign.

Sign area. The area of a sign shall consist of the entire surface area on the display side, excluding frames and ornamental areas and supporting posts or columns that hold the sign above ground level. The sign area includes company or brand name, insignia or emblem, and special announcement of services. When a sign has two or more faces, the areas of all such faces shall be included in calculating the area of the sign. However, when two sign faces are back to back, the measurement of only one of the faces shall be used in calculating the area of the sign. The angle of the two faces placed back to back shall not exceed 45 degrees.

Sign, billboard. A sign of freestanding, permanent structure containing permanent lettering or other visual displays.

Signs, freestanding. Any sign which is a separate, permanent structure.

Sign, movable. A sign mounted on wheels, a trailer, or other base designed to be transportable.

Sign, political. A sign relating to the election of a person or persons to public office or relating to a political party or relating to a matter to be voted upon at an election called by a public body.

Sign, poster panel. A sign of freestanding permanent structure with posters or other temporary material displayed on it.

Site plan. A scaled drawing(s) illustrating existing conditions and containing the elements herein as applicable to the proposed development to ensure compliance with zoning provisions.

Special land use. Any use of land listed as a special land use subject to special conditions which, due to its potential effect on adjacent lands, in particular, and the overall city in general, requires approval by the planning commission [now planning board—see Charter [§ 5-201](#)] according to the standards as provided in this ordinance.

Specified anatomical areas. [Specified anatomical areas] means:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; or
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities. [Specified sexual activities] means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as a part of or in connection with any of the activities set forth in subsections 1 through 3 above.

State-licensed residential facility. A structure constructed for residential purposes that is licensed by the state pursuant to Public Act No. 287 of 1972, as amended [see now MCL 400.501 et seq.], and which provides resident services for six or less persons under 24-hour supervision or care.

Story. That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story (see Figure 1 [located at the end of this section]).

Story, half. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet. For the purposes of this ordinance, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of vehicular access to abutting property including emergency response vehicles.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground (excluding fences and signs).

Structure alteration. Any change in the supporting members of a building or structure, such as bearing walls, or partitions, columns, beams or girders, or any change in the width or number of exits, or any substantial change in the roof.

Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

Swimming pool. Any constructed or portable pool, used for swimming or bathing over 24 inches in depth, or with a surface area exceeding 160 square feet.

Temporary building and use. A structure or use permitted by the building inspector to exist during the periods of construction of the main use or for special events, not to exceed six months.

Travel trailer. A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, having a body not exceeding eight feet in width or 28 feet in length.

Use. The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance. Permission to depart from the literal requirements of the zoning ordinance.

Variance, nonuse. A departure from the provisions of the zoning ordinance relating to setbacks, side yards, frontage requirements, lot size, parking, signage, and other requirements of the applicable zoning district.

Variance, use. A variance granted for a use or structure that is not permitted in the applicable zoning district.

Wall, obscuring. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

Yards. The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as identified herein:

- A. *Front yard.* A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure. In the case of a waterfront lot, the yard on the street side shall be the front yard (see Figure 6 [located at the end of this section]).
- B. *Rear yard.* A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building (see Figure 6 [located at the end of this section]).
- C. *Side yard.* A yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (see Figure 6 [located at the end of this section]).

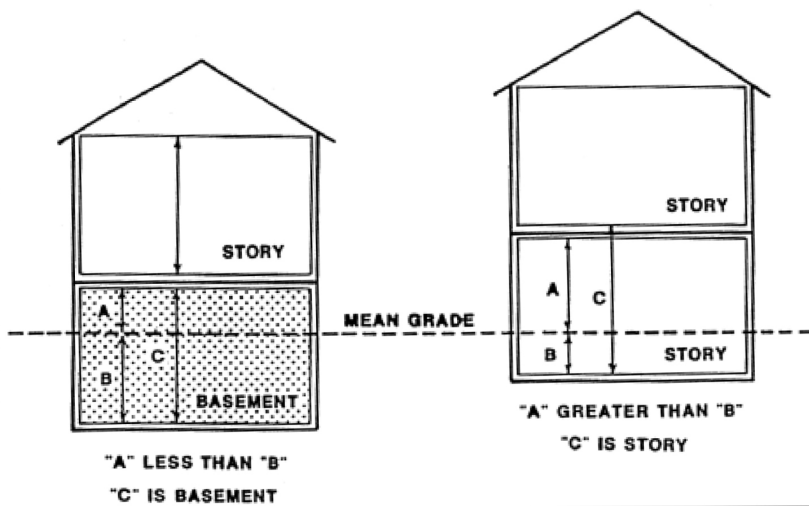
Zoning Enabling Act. Michigan Public Act No. 110 of 2006 as amended, the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

Zoning district. A zoning district is a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which yard[s], open spaces, lot area, and other requirements are established by this ordinance.

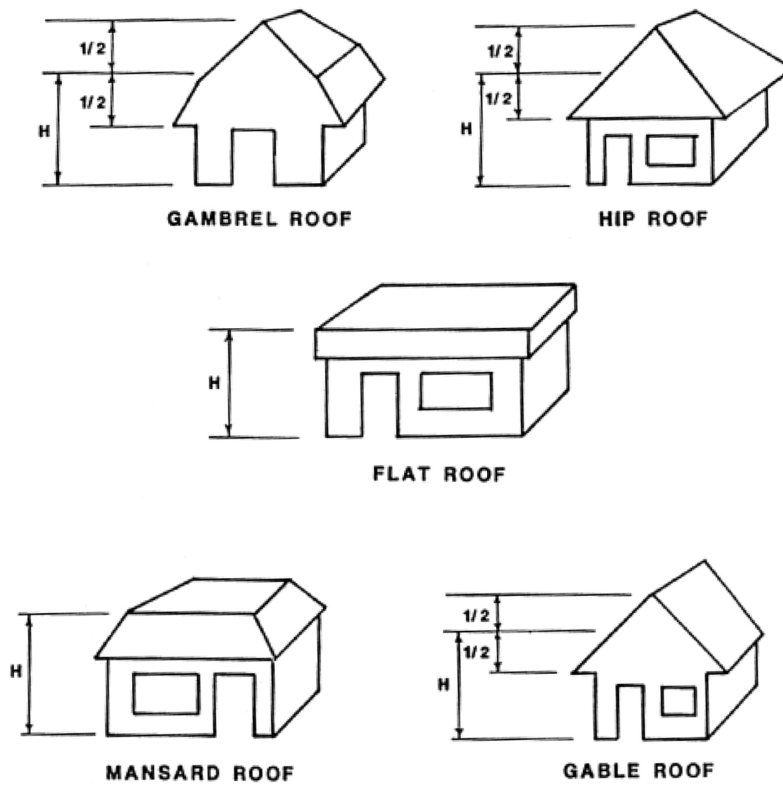
Zoning lot. A single tract of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developed as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this ordinance with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

**FIGURE 1
BASEMENT AND STORY**



**FIGURE 2
BUILDING HEIGHTS**



**FIGURE 3
MEAN GRADE**

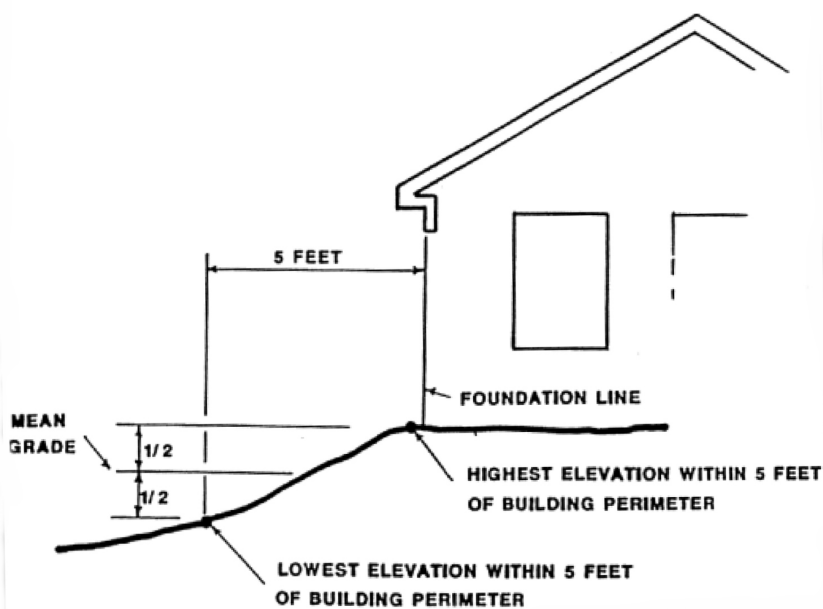


FIGURE 4

CORNER LOT

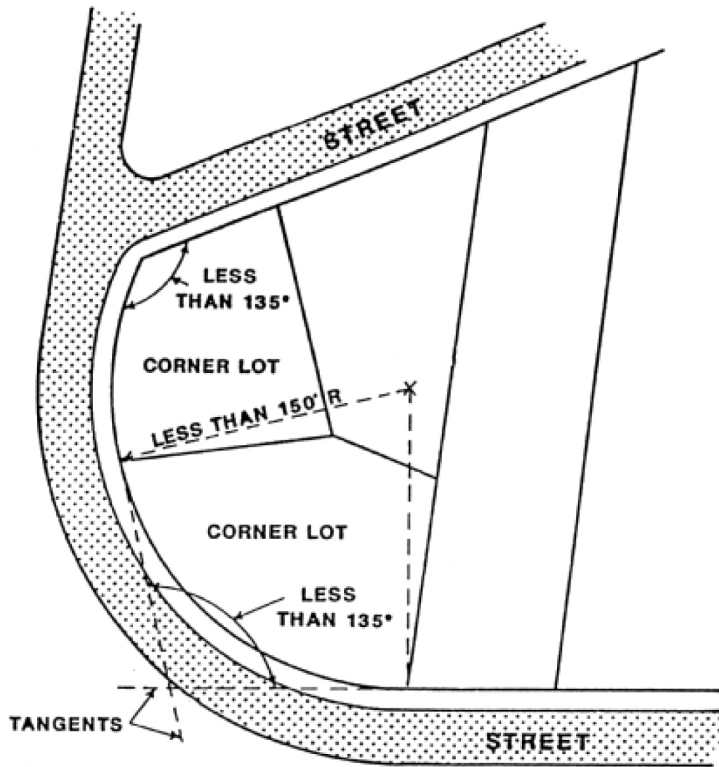


FIGURE 5
LOT DEPTH

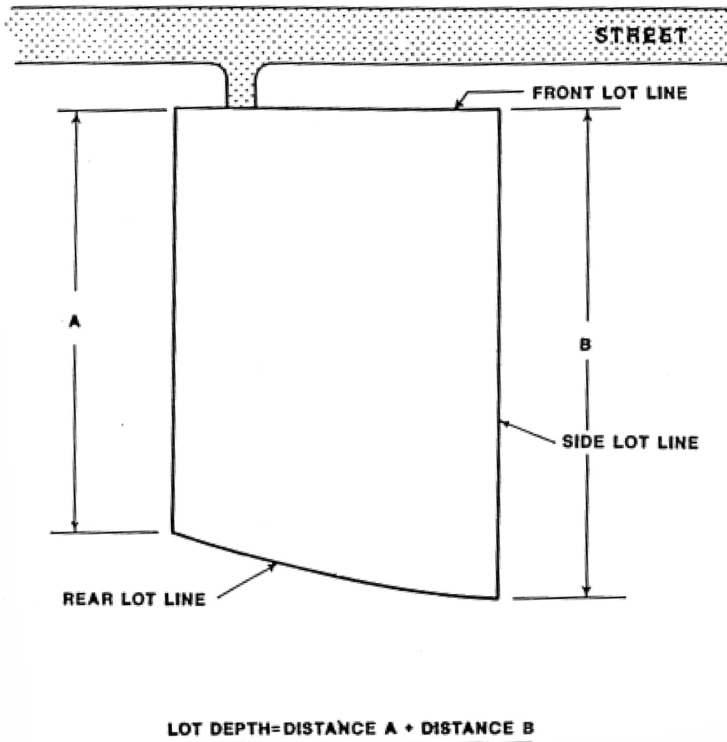
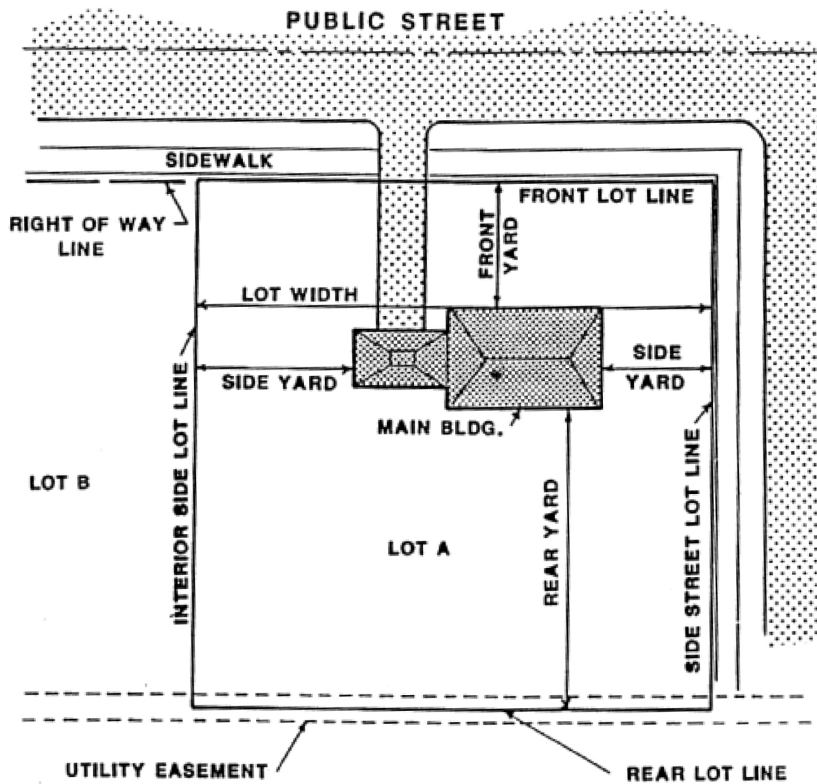


FIGURE 6
LOT LINES AND YARDS



(Ord. No. 317, § 1, 3-10-1998; Ord. No. 339, § 1, 1-9-2001; Ord. No. 427, § 2, 1-14-2016)

ARTICLE 3. - ZONING DISTRICTS AND ZONING MAP

Sec. 3.1. - Districts established.

For this purpose of this ordinance, the City of Montrose is hereby divided into the following districts:

SF1	Single-family residential
SF2	Single-family residential
MFR	Multiple-family residential
MHP	Mobile home/manufacturer home park
CBD	Central business district
GBD	General business district
IND	Industrial district

Sec. 3.2. - Zoning map and boundaries.

1. The boundaries of these districts are hereby established as shown on the zoning map, City of Montrose Zoning Ordinance, which accompanies this ordinance, and which map, with all notations, references and other information shown thereon, shall be as much a part of this ordinance as if fully described herein.
2. The zoning map shall be kept on display in the city hall, and descriptions accompanying enacted amendments to the zoning map shall be displayed adjacent to the map until such time as the map is corrected. The zoning map shall be the final authority as to the current zoning status in the city.

Sec. 3.3. - District boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning districts map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of the streets, highways, or alleys, shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate

limits.

4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
6. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 5 above, the board of appeals shall interpret the district boundaries.
7. Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

Sec. 3.4. - Zoning of vacated areas.

Whenever any street, alley or other public way within the City of Montrose shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches.

Sec. 3.5. - Zoning of annexed areas.

Wherever any area is annexed to the City of Montrose, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified as being in whichever district of this ordinance that most clearly conforms with the zoning. Such classification is to be recommended by the planning commission [now planning board—see Charter § 5-201] and the city council shall approve same by resolution.
2. Land not zoned prior to annexation shall be automatically classified as an R-1 district until a zoning map for said area has been adopted. The planning commission [now planning board—see Charter § 5-201] shall recommend the appropriate zoning districts for such area within three months after annexation, and the city council shall approve some by resolution.

Sec. 3.6. Schedule of regulations [for height, bulk, density, and area by zoning district].The following regulations regarding lot sizes, yards, setbacks, building heights, and densities apply within the zoning districts as indicated, including the regulations contained in section 3.7, Footnotes. No building shall be erected, nor shall an existing building be altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located:

Zoning District	Minimum size per zoning lot		Maximum building height		Minimum yard setback requirements in feet (A) (B) (C) (D)				Minimum floor area per unit (in square feet) (F)
	Area in square feet	Width in square feet	In stories	In feet	Front	Least side	Total of two sides	Rear	

SF1, Single-family residential	7,500	75	2	30	20	10	20	15	1,050
SF2, Single-family residential	9,000	90	2	30	25	10	20	15	1,050
MFR, Multiple-family residential (E)	—	—	2	35	30	(H)	(H)	(H)	(H)
MHP, Mobile home/manufactured home park (I)	(I)	(I)	2	30	(I)	(I)	(I)	(I)	—
CBD, Central business district	—	—	—	35	—(J)	—	—(K) (L)	10	—
GBD, General business district	—	—	—	35	25	10	10(K) (L)	20	—
IND, Industrial district	—	—	—	35	25	10	20(M) (L)	15(M) (K)	—

(Ord. No. 308, § 1, 5-13-1997; Ord. No. 320, § 1, 7-14-1998)

Sec. 3.7. - Footnotes to schedule of regulations.

- A. In single-family residential, multiple-family residential, mobile home residential, commercial and industrial districts, the required front yard setbacks shall not be used for off-street parking and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives. All yards abutting public streets shall be considered as front yards for setback purposes.
- B. Minimum front yard setback is measured from the edge of the proposed right-of-way, based upon information and standards set forth by the City of Montrose.
- C. All yards abutting upon a public street shall be considered as front yard for setback purposes.
- D. Where a front yard of lesser depth than specified in the schedule of regulations exists in front of dwellings on more than 50 percent of the lots of record on one side of the street in any one block in a single-family residential district, the depth of front yard for any building thereafter erected or placed on any lot in such block need not be greater than the average depth of front yards of such existing building.
- E. The minimum land area required for each dwelling unit in the MFR district shall be in accordance with the following schedule:

Dwelling Unit Type	Land area required (square feet)	
	Multiple dwelling	Townhouses/duplexes
Efficiency or/one-bedroom unit	3,000	4,200
Two-bedroom unit	4,200	5,000
Three-bedroom unit	5,100	5,700
Four-bedroom or more unit	5,700	6,000

- F. The minimum floor area per dwelling unit shall not include area of basements, breezeways, porches, or attached garages.
- G. The minimum required floor area per dwelling unit in the MFR district shall be:

Efficiency	400 square feet
One-bedroom apartment	550 square feet
Two-bedroom apartment	750 square feet
Three-bedroom apartment	850 square feet
Four-bedroom apartment	1,040 square feet

- H. Each side yard shall be a minimum of ten feet and this space shall be increased beyond ten feet by two feet for each ten feet or part thereof by which said dwelling structure exceeds 40 feet in overall dimension along the adjoining lot line. Maximum building length shall not exceed 200 feet. In the multiple-family zoning district, there shall be maintained a minimum distance between adjacent buildings on the same lot equal to the height of the taller building.
- I. Mobile home park developments are subject to the minimum requirements and standards as established in the Mobile Home Commission Act, Public Act 419 of 1976 [see now MCL 559.101 et seq.], and any and all rules and regulations promulgated pursuant to Act 419, as may be amended.
- J. Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveway, and the nearest edge of the proposed right-of-way line.
- K. No side yards are required along the interior side lot lines of the district, or adjacent to other nonresidential use districts except as otherwise specified in the building code, provided that if walls of structures facing such interior side lot lines or districts contain windows or other openings, side yards of not less than ten feet shall be provided.
- L. Off-street parking shall be permitted in a required side yard setback provided that there shall be maintained a screening wall between the nearest point of the off-street parking area and the side lot line, when said property line abuts any residential district.
- M. A privacy fence six feet in height must be placed on all property lines abutting a residential district.
- N. All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six feet high, or with a chain-link type fence and a greenbelt planting so as to obscure all view from any adjacent residential, commercial district or from a public street.
- O. A lot depth to lot width ratio of 4:1 shall be the maximum permitted for the single-family residential districts.

(Ord. No. 320, § 2, 7-14-1998)

Sec. 3.8. - Lot size averaging.

Lot size averaging may be permitted if the planning commission [now planning board—see Charter § 5-201] determines that it will provide a better relationship of lots to the topography, vegetation or other natural or manmade features. In the case where lot size averaging is permitted:

1. The number of lots shall not exceed the number allowed for the zoning district in which the development is located.
2. Reduction of lot area or width below the minimum required for the zoning district may be permitted by the planning commission [now planning board—see Charter § 5-201] for not more than one-third of the total number of lots in the development.
3. No lot shall have an area or width greater than 20 percent below that area or width required in the schedule of regulations.
4. All computations showing lot area and the average resulting through this technique shall be provided by the applicant and indicated on the print of the preliminary plat.

Sec. 3.9. - Single-family cluster housing option.

The intent of this section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for a more appropriate development in situations where the normal subdivision approach would otherwise be restrictive owing to the presence of environmentally sensitive lands on the site or the configuration of the site.

1. In approving an area for the cluster housing option, the planning commission [now planning board—see Charter § 5-201] shall find at least one of the following to exist:
 - a. The parcel to be developed has frontage on a major or secondary street and is generally parallel to said street and is of shallow depth as measured from the street.
 - b. The parcel has frontage on a major or secondary street and is of a narrow width as measured along the street which makes platting difficult.
 - c. The parcel is shaped in such a way that it contains acute angles which would make a normal subdivision difficult to achieve and has frontage on a major or secondary street.
 - d. A substantial part of the parcel's perimeter is bordered by a major street which would result in a substantial proportion of the lots of the development abutting the major street.
 - e. The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps or other documented evidence must be submitted to the planning commission [now planning board—see Charter § 5-201] in order to substantiate the parcel's qualification for cluster development.
 - f. The parcel contains natural assets which could be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features, or other natural assets which, in the opinion of the planning commission [now planning board—see Charter § 5-201], should be preserved. Requests for qualification under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under this option.
2. In areas meeting the above criteria, the minimum yard setbacks, heights, and minimum lot sizes per unit as required by the schedule of regulations may be waived and the attaching of dwelling units may be

accomplished subject to the following:

- a. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the single-family residential district in which the cluster is to be constructed.
 - b. The attaching of single-family dwelling units, one to another, may be permitted when said homes are attached by means of one or more of the following:
 - (1) Through a common party wall which does not have over 50 percent of its area in common with an abutting dwelling wall.
 - (2) By means of an architectural wall detail which does not form interior room space.
 - (3) Through a common party wall in only the garage portion of an abutting structure.
 - c. The maximum number of units attached in the above described manner shall not exceed four.
 - d. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the gross land area were to be developed in the minimum square foot lot areas as required for each single-family district under the schedule of regulations.
3. Yard requirements shall be provided as follows:
- a. Spacing between any grouping of four or less one-family units and another grouping of such structures shall be equal to at least 20 feet, measured between the nearest point of the two groupings. A grouping may include a single, freestanding unit.
 - b. All such groupings shall be situated as to have one side of the building abutting onto a common open space.
 - c. Any side of a building adjacent to a private service drive or private land shall not be nearer to said drive or lane than 20 feet.
 - d. Any side of a building adjacent to a public right-of-way shall not be nearer to said public rights-of-way than 30 feet.
 - e. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this section, shall cause all dwelling units facing such subdivision to relate through its front or entrance facade and shall treat said side of the grouping as a front yard.
 - f. No building shall be located closer than 30 feet to the outer perimeter (property line) of the site.
4. The maximum height of buildings shall be 35 feet.
5. In reviewing the plans and approving the application of this section to a particular site, the planning commission [now planning board—see Charter [§ 5-201](#)] shall require the following.
- a. A landscaped berm, at least five feet high, shall be provided along the entire property line abutting the major street. This berm may be included within a required side or rear yard.
 - b. The planning commission [now planning board—see Charter [§ 5-201](#)] shall find that the slopes on said berms are gentle enough so as not to erode when planted in grass; and they shall review the design of the berm as it relates to street intersections, finding that the horizontal view of oncoming traffic is not obscured.
6. In submitting a proposed layout under this section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two-foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and

density, details relative to the proposed berm, and any other details which will assist in reviewing the proposed plan.

7. Site plans submitted under this option shall be accompanied by information regarding the following.
 - a. The proposed manner of holding title to open land.
 - b. The proposed method of regulating the use of open land.
 - c. The proposed method of maintenance of property and financing.

ARTICLE 4. - SINGLE-FAMILY RESIDENTIAL SF1

Sec. 4.1. - Intent.

The intent of this district is to provide an environment primarily for single-family dwellings on older platted city lots and other compatible related facilities which serve the residents in the district.

Sec. 4.2. - Permitted uses.

Land, building, and other structures in this zoning district may only be used for the following specified uses:

1. Single-family dwellings, including manufactured homes.
2. State-licensed residential care facilities.
3. Foster care homes.
4. Essential public services.
5. Public open space.
6. Accessory buildings, structures and uses customarily incidental to any of the above permitted uses.

Sec. 4.3. - Special land uses.

The following uses are considered special land uses within the district and may be approved by the planning commission [now planning board—see Charter [§ 5-201](#)], subject to the applicable general and specific standards in [article 11](#):

1. Public and semipublic institutional buildings, structures and uses, and public parks.
2. Essential public service buildings.
3. Primary and secondary schools (either public or private) providing general educational instruction as defined by Michigan Statutes.
4. Colleges.
5. Home occupations
6. Child care services.
7. Churches.
8. Bed and breakfast inns.
9. Accessory buildings, structures and uses customarily incidental to any of the above special land uses.

(Ord. No. 305, 12-10-1996; Ord. No. 306, 3-11-1997)

Sec. 4.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.
4. Sign standards - article 14.

ARTICLE 5. - SINGLE-FAMILY RESIDENTIAL SF2

Sec. 5.1. - Intent.

The SF2 residential district is intended to be a lower density residential district. The intent of this district is to provide an environment primarily for single-family dwellings and other compatible related facilities which serve the residents in the district.

Sec. 5.2. - Permitted uses.

Land, building, and other structures in this zoning district may only be used for the following specified uses:

1. Single-family dwellings, including manufactured homes.
2. State-licensed residential care facilities.
3. Foster care homes.
4. Essential public services.
5. Public open space.
6. Accessory buildings, structures and uses customarily incidental to any of the above permitted uses.

Sec. 5.3. - Special land uses.

The following uses are considered special land uses within the district and may be approved by the planning commission [now planning board—see Charter § 5-201], subject to the applicable general and specific standards in article 11:

1. Two-family dwelling (duplex).
2. Housing for the elderly.
3. Public and semipublic institutional buildings, structures and uses, and public parks.
4. Essential public service buildings.
5. Primary and secondary schools (either public or private) providing general educational instruction as defined by Michigan Statutes.
6. Colleges.
7. Home occupations.
8. Child care services.
9. Churches.
10. Bed and breakfast inns.
11. Accessory buildings, structures and uses customarily incidental to any of the above special land uses.

(Ord. No. 305, 12-10-1996; Ord. No. 306, 3-11-1997)

Sec. 5.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.
4. Sign standards - article 14.

ARTICLE 6. - MULTIPLE-FAMILY RESIDENTIAL MFR

Sec. 6.1. - Intent.

The multiple-family district is intended to be the highest density residential district that allows multiple-family dwellings along with other residentially related facilities which serve the residents of the district.

Sec. 6.2. - Permitted uses.

In a multiple-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Two-family dwellings.
2. Multiple-family dwellings.
3. Housing for the elderly.
4. Essential public services.
5. Public open space.
6. Accessory buildings, structures, and uses customarily incident to any of the above permitted uses.

Sec. 6.3. - Special land uses.

The following uses are considered special land uses within the district and may be approved by the planning commission [now planning board—see Charter § 5-201], subject to the applicable general and specific standards in article 11:

1. Child care services.
2. Foster care homes.
3. Public and semipublic institution buildings, structures and uses, and public parks.
4. State-licensed residential care facilities.
5. Essential public service buildings.
6. Primary and secondary schools (either public or private) providing general educational instruction as defined by Michigan Statutes.
7. Colleges.
8. Home occupations.
9. Churches.

10. Bed and breakfast inns.

11. Accessory buildings, structures and uses customarily incidental to any of the above special land uses.

(Ord. No. 305, 12-10-1996; Ord. No. 306, 3-11-1997)

Sec. 6.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.
4. Sign standards - article 14.
5. Landscaping and screening standards - article 16.

ARTICLE 7. - MOBILE HOME/MANUFACTURED HOME PARK MHP

Sec. 7.1. - Intent.

It is the purpose of the mobile home park district to provide for the development of mobile home parks in appropriate locations and in accordance with the regulations established by the Michigan Mobile Home Commission (MMHC) and the City of Montrose which have been approved by the commission.

Sec. 7.2. - Permitted uses.

- A. Mobile homes (manufactured homes) used as residential units.
- B. Private parks and playgrounds, for the use by residents in the mobile home park.

Sec. 7.3. - Site development standards.

All mobile home parks developed after the effective date of this ordinance shall comply with the code of the Michigan Mobile Home Commission.

- A. Site layout, pedestrian, and vehicular circulation in mobile parks shall be consistent with Mobile Home Park Commission Rules 942, 943, 928, and 920, respectively.
- B. There shall be open spaces between each mobile home of not less than 20 feet from any part of an attached or detached structure of an adjacent mobile home which is used for living purposes and ten feet from either of the following: an on-site parking space of an adjacent mobile home site or an attached or detached structure or accessory of an adjacent mobile home which is not used for living purposes.
- C. If mobile homes, permanent buildings and facilities, and other structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way line. This rule does not apply to internal roads if dedicated for public use, if the roads do not present a nuisance or safety hazard to the park tenants or condominium owners.
- D. Two parking spaces shall be provided for each mobile home site.
- E. Parking standards outlined in MMHC Rules 920, 925, and 926 shall be incorporated in the design and construction of a mobile home park.

- F. A plumbing, heating, and electrical installation in mobile home parks shall be maintained in accordance with the state Plumbing, Heating, and Electrical codes. All utilities shall be underground.

Sec. 7.4. - Additional requirements.

- A. If a developer elects to provide a recreational area, the developer shall show this area on the plan.
- B. Mobile home parks shall be landscaped as follows:
 - 1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
 - 2. If the park abuts a nonresidential development, the park need not provide screening.
 - 3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way. (The landscaping shall consist of evergreen trees or shrubs of minimum three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.)
- C. Layout of a mobile home park and other facilities intended for tenant use shall be in accordance with acceptable architectural and engineering practices and shall provide for the convenience, health, safety, and welfare of the tenants.
- D. All heating systems shall conform to the standards established by the MMHC Rules 934—940.
- E. There shall be no storage underneath any mobile home, and each mobile home site shall be maintained in a clean and presentable condition at all times and each mobile home shall be skirted within 90 days of the date the mobile home is sited.
- F. Fences shall conform to the standards of MMHC Rule 945(2).

ARTICLE 8. - CENTRAL BUSINESS DISTRICT [CBD]

Sec. 8.1. - Intent.

The central business district is intended to provide for a mixture of office uses, retail stores, entertainment, public spaces, and related activities that are mutually supporting and serve the needs of both the city and surrounding communities. The intent of this district regulation is to encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented unified setting, with shared parking. The district makes special provision for vertical zoning, allowing the upper floors to be used as residential dwellings. The district also recognizes the existence of residential areas of the city where houses can be converted to low intensity office uses.

Sec. 8.2. - Permitted uses.

In the central business district, land, buildings, and other structures shall be used only for one or more of the following specified uses. All such uses shall deal directly with consumers; all business, servicing or processing, except for off-street parking and loading, shall be conducted on the premises within a completely enclosed building. Outdoor storage of commodities shall be expressly prohibited.

- 1. Retail food establishments which supply: groceries, fresh produce, meats, dairy products, baked goods, confections or similar commodities for consumption off the premises. Foodstuffs may be prepared on the

- premises as an accessory use if sold at retail prices on premises.
2. Retail businesses conducted entirely within an enclosed building such as: drugstores, liquor, dry goods, clothing, furniture, hardware, music, bookstores, and gift shops.
 3. Personal service establishments such as but not limited to: small electronics repair shops, shoe repair, tailors, hair styling salons, photographers' studios, film processing outlets, copy centers, interior decorators, postal centers and dry cleaners.
 4. Newspaper offices and publishing, and commercial printers.
 5. Restaurants and other establishments serving food and/or beverages on premises, which may include seasonal outdoor seating, excluding drive-through or drive-ins.
 6. Essential public services.
 7. Private clubs, lodge halls, theaters, cinemas, and similar such assembly buildings when completely enclosed.
 8. Banks, savings and loans, and credit unions (not including drive-through facilities).
 9. Professional offices such as: medical and dental chiropractors, osteopaths, and similar or allied professions.
 10. Professional services such as: insurance, real estate, legal financial, and similar or allied professions.
 11. Essential public service buildings.
 12. Public and semipublic institutional buildings, structures and uses, and public parks.
 13. Funeral homes.
 14. Hotels and motels.
 15. Bed and breakfast inns.
 16. Twenty-four-hour banking centers/ready tellers which are separate from a financial institution.
 17. Video rental establishments.
 18. Residential dwellings in upper stories.
 19. Warehouse and storage on upper level, provided that no storage shall be allowed on a floor having residential dwellings and that all storage shall be related to a permitted use within the same structure.
 20. Convenience stores without gasoline service.
 21. Accessory buildings, structures and uses customarily incidental to any of the above permitted uses.

(Ord. No. 322, §§ 1, 2, 10-13-1998)

Sec. 8.3. - Special land uses.

The following uses shall be considered special land uses within the central business district and may be approved by the planning commission [now planning board—see Charter [§ 5-201](#)], subject to the applicable general and specific standards in [article 11](#):

1. Restaurants and other establishments serving food and/or beverages on premises with drive-through or drive-in facilities.
2. Convenience stores with gasoline service.
3. Banks, savings and loans, credit unions and other facilities, with drive-through facilities.
4. Indoor recreational establishment.
5. Automobile service stations.

6. Automobile repair shops.
7. Child care services.
8. Housing for the elderly.
9. Open front restaurant windows, when accessory to a principal permitted restaurant and designed for walk-up patrons only.
10. Accessory buildings, structures, and uses customarily incidental to any of the above special land uses.
11. Churches.

(Ord. No. 322, § 3, 10-13-1998)

Sec. 8.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.
4. Sign standards - article 14.
5. Landscaping and screening standards - article 16.

ARTICLE 9. - GENERAL BUSINESS DISTRICT GBD

Sec. 9.1. - Intent.

The general business district is intended to accommodate commercial establishments that serve communitywide shopping and service needs, including motorists using M-57. The district is intended to create cohesive commercial areas that take advantage of access provided by the city's roadway system, but also provide convenient access for local residents, thereby ensuring the safety and discouraging undesirable strip commercial development.

Sec. 9.2. - Permitted uses.

In the general business district, land, buildings, and other structures shall be used for one or more of the following specified uses:

1. Retail food establishments, including convenience stores, whose principal activity is within a wholly enclosed building which supply groceries, fresh produce, meats, dairy products, baked goods, confections or similar commodities for consumption off the premises. Foodstuffs may be prepared on the premises as an accessory use if sold at retail prices on premises.
2. Retail business conducted entirely within an enclosed building such as drugstore, liquor, dry good, clothing, furniture, hardware, music, bookstores, and gift shops.
3. Personal service establishments such as, but not limited to, small electronics repair shops, shoe repair, tailors, hair styling salons, photographers' studios, film processing outlets, copy centers, interior decorators, postal centers, self-service laundry, and dry cleaners.
4. Newspaper offices and publishing, and commercial printers.
5. Restaurants and other establishments serving food and/or beverages excluding drive-through and drive-ins.

6. Private clubs, lodge halls, theaters, cinemas, and similar such assembly buildings when completely enclosed.
7. Banks, savings and loans, and credit unions (not including drive-through facilities).
8. Funeral homes.
9. Indoor recreational establishments.
10. Banks, savings and loans, credit union and other facilities, with drive-through facilities.
11. Medical clinics.
12. Professional offices such as medical and dental, chiropractors, osteopaths, and similar or allied professions.
13. Professional services such as insurance, real estate, legal, financial, and similar or allied professions.
14. Hotel and motels.
15. Twenty-four-hour banking centers/ready tellers which are separate from a financial institution.
16. Convenience stores without gasoline service.
17. Essential public services.
18. Essential public service buildings.
19. Accessory buildings, structures and uses customarily incidental to any of the above permitted uses.

(Ord. No. 322, §§ 4, 5, 10-13-1998)

Sec. 9.3. - Special land uses.

The following uses shall be considered special land uses within the general business district and may be approved by the planning commission [now planning board—see Charter [§ 5-201](#)], subject to the applicable general and specific standards in [article 11](#):

1. Sexually oriented businesses.
2. Nurseries, and garden centers, provided that all outdoor storage areas are screened.
3. Buildings and lumber supply, provided that the use is primarily for the storage and sale of retail goods, and excludes manufacturing, processing, planing or milling operations, provided that all outdoor storage areas are screened.
4. Car wash, automatic or self-service.
5. Automobile repair stations.
6. Automobile service stations.
7. Restaurants and other establishments serving food and/or beverages, on premises with drive-throughs and/or drive-ins facilities.
8. Open front restaurant windows, when accessory to a principal permitted restaurant and designed for walk-up patrons only.
9. Commercial outdoor storage.
10. Outdoor recreational establishments.
11. Child care services.
12. Convenience stores with gasoline service.
13. Outdoor sales space for exclusive sale of used automobiles, new and/or used mobile homes, boats and recreational vehicles provided that no major repair or major refinishing shall be conducted on the lot.

14. Accessory buildings, structures and uses customarily incidental to any of the above special land uses.
15. Churches.

(Ord. No. 317, § 2, 3-10-1998; Ord. No. 322, § 6, 10-13-1998)

Sec. 9.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.
4. Sign standards - article 14.
5. Landscaping and screening standards - article 16.

ARTICLE 10. - INDUSTRIAL DISTRICT IND

Sec. 10.1. - Intent.

It is the intent of this district to provide areas for low intensity industrial facilities. The industrial uses permitted in this district are, by necessity, of a light manufacturing processing variety. The limited amount of land in the city which is suitable for these uses and the close proximity of residential uses in virtually all areas of the city do not permit heavier industrial processes to occur without substantial harm to these areas.

It is not the intent of this district to permit uses which, by reason of the production of fumes, odors, noise, vibration, waste products, toxic materials or other such nuisances, may be potentially harmful to the environment or well-being of the city and its residents.

Sec. 10.2. - Principle uses.

In an industrial district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
2. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building:
 - a. Warehousing and wholesale establishments and trucking facilities.
 - b. The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 - c. The manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials; bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood, and yarns.
 - d. The manufacture of pottery and figurines or other similar ceramic products using only previously

pulverized clay, and kilns fired only by electricity or gas.

- e. Manufacture of musical instruments, toys, novelties and meal or rubber stamps, or other molded rubber products.
 - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radio and phonographs.
 - g. Laboratories, experimental, film or testing.
 - h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
 - i. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumer at retail.
 - j. All public utilities, including buildings, necessary structures, storage yards, and other related uses.
3. Warehouse, storage, and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations.
 4. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractors' equipment and supplies.
 5. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other similar municipal buildings and uses, including outdoor storage.
 6. Kennels.
 7. Trade or industrial schools.
 8. Recycling centers.
 9. Auto engine repair shops when located in a completely enclosed building.
 10. Ministorage facilities.
 11. Accessory buildings structures and uses customarily incident to any of the above principal uses.

Sec. 10.3. - Special land uses.

The following special land uses may be approved by the planning commission [now planning board—see Charter § 5-201], subject to the applicable general and specific standards in article 11:

1. Tool and die machinery shops.
2. Industrial plating and machinery facilities.
3. Automobile body and repair shops.
4. Salvage [yards] or junkyards.
5. Extractive operations.
6. Accessory buildings, structures and uses customarily incidental to any of the above special land uses.

Sec. 10.4. - Site development standards.

1. Schedule of regulations - article 3.
2. Site plan review standards - article 12.
3. Parking and loading-unloading standards - article 13.

4. Sign standards - article 14.
5. Landscaping and screening standards - article 16.

Sec. 10.5. - Industrial performance standards.

1. All activities and uses within the district shall be subject to such requirements, regulations, and performance standards as established by federal, state, county, and local laws.
2. Areas such as noise, water pollution air contaminants, vibration, radioactive materials, open fires, flammable material, transmission equipment and hazardous waste shall meet standards and regulations established by the federal, state, county, and local agencies having jurisdiction.

ARTICLE 11. - SPECIAL LAND USES

Sec. 11.1. - Purpose.

The intent of this article is to provide regulations for uses which are essentially compatible with uses permitted by right in a given district, but which, by reason of the special nature of such uses or their particular location in relation to neighboring properties, require a stricter level of review by the city. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

Sec. 11.2. - Standards for approval.

1. The planning commission [now planning board—see Charter § 5-201] shall review the particular circumstances and facts applicable to each proposed special land use in terms of the following standards and requirements and shall make a determination as to whether the use proposed to be developed on the subject parcel meets the following standards and requirements:
 - a. Will be compatible with and in accordance with the general goals and policies of the City of Montrose Comprehensive Development Plan.
 - b. Will be designed, constructed, operated, and maintained with existing and intended character of the general area and so that such use will not change the essential character of that area.
 - c. Will not be hazardous or detrimental to existing or future neighboring uses.
 - d. Will represent a general benefit to the community as a whole.
 - e. Will be served adequately by public services and facilities, such as streets, drainage, water, sewer, and police and fire protection.
 - f. Will not create excessive additional requirements at public cost for public facilities and services.
 - g. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.
 - h. Will be consistent with the intent and purposes of this ordinance.
2. Properties for which application for special land use approval is made shall also be subject to site plan review in accordance with the requirements of article 12, Approval of site plans.

Sec. 11.3. - Application procedure.

1. Application for any special land use permit as provided under the provisions of this ordinance shall be made to the zoning administrator by filing a special land use permit application form at least 30 days prior to the planning commission [now planning board—see Charter § 5-201] meeting at which the permit is to be considered. Payment of an application fee, which shall be nonrefundable, may be established by the city council.
2. An application for a special land use permit shall contain the following:
 - a. Applicant's name, address and telephone number.
 - b. Address and tax description number of the subject parcel.
 - c. A signed statement that the applicant is the owner of the subject parcel, or is acting as the owner's representative.
 - d. A certified survey drawing of the subject parcel.
 - e. A complete site plan containing all of the applicable data outlined in article 19, Review and approval of site plans.
 - f. Supporting statements, evidence, data, information and exhibits which address the standards and requirements for assessing special land use permit applications outlined in section 11.4 below.

Sec. 11.4. - Designated review authority and approval procedure.

1. The planning commission [now planning board—see Charter § 5-201] shall have the authority to approve special land use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the city may require for any special land use included in the various provisions of this zoning ordinance.
2. Upon receipt of an application for a special land use permit, the planning board shall hold a public hearing. The city clerk shall post notice of public hearing in a newspaper of general circulation within the city not less than 15 days before the next regular meeting of the city planning board. The content of the notice shall describe the nature of the request, indicate the property that is the subject of the request by street address, state when and where the request will be considered and indicate when and where written comments can be received per Section 103(3) of Public Act 110. The city clerk shall mail, by first class mail, a copy of such notices to each resident and owner of all properties as listed on the tax roll and located within 300 feet from the property involved in the application regardless of municipal boundaries and according to section 19.5.3. herein.
3. The planning commission [now planning board—see Charter § 5-201] may deny, approve or approve with conditions a request for special land use permit. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision and any conditions recommended.
4. The special land use review and site plan review may occur concurrently at the discretion of the planning commission [now planning board—see Charter § 5-201].
5. In addition to the other procedures set forth in this ordinance, the planning commission [now planning board—see Charter § 5-201] shall adhere to the following procedures when reviewing a special land use application for a sexually oriented business:
 - a. If the planning commission [now planning board—see Charter § 5-201] determines that a special land use application for a sexually oriented business is not complete when it is first presented to the planning commission [now planning board—see Charter § 5-201], it shall provide written notice to the applicant by first class mail within five business days of the determination detailing the items required for the application.

- b. If the planning commission [now planning board—see Charter § 5-201] determines that the application is compliant within 60 days of the determination make and adopt specific findings with respect to whether the sexually oriented business is in compliance with the standards of section 11.8 and other provisions of this ordinance. If the planning commission [now planning board—see Charter § 5-201] has not made and adopted findings of fact with respect to proposed sexually oriented business and either approved, approved with conditions or denied the issuance of a special land use permit within 60 days of its determination that a complete application has been filed, the special land use application shall be deemed to have been approved.

(Ord. No. 317, § 3, 3-10-1998; Ord. No. 389, 12-12-2006; Ord. No. 427, § 3, 1-14-2016)

Sec. 11.5. - Conditions of approval.

1. If the facts regarding the special land use being reviewed do not establish by a preponderance of the evidence that the standards and requirements set forth in this zoning ordinance will be met by the proposed use, the planning commission [now planning board—see Charter § 5-201] shall not approve the special land use application.
2. In recommending approval of a special land use permit, the planning commission [now planning board—see Charter § 5-201] shall impose such reasonable conditions as it deems necessary to protect the best interests of the city and the general vicinity, to achieve the objectives of this ordinance and to assure [ensure] that the general public health, safety, and welfare will not be infringed upon.
3. Approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
4. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use permit is approved.
5. A record of the decision of the planning commission [now planning board—see Charter § 5-201], the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission [now planning board—see Charter § 5-201] and shall be filed with the city clerk, who will maintain record permanently.

Sec. 11.6. - Validity of special land use permit.

1. In cases where actual physical construction of a substantial nature of the structures authorized by a special land use permit has not commenced within one year of issuance, and a written application for extension of the approval has not been filed as provided in subsection 2 below, the permit shall automatically become null and void.
2. Upon written application filed prior to the termination of the one year period, the planning commission [now planning board—see Charter § 5-201] may authorize a single extension of the time limit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one year extension.
3. No application for a special land use permit which has been denied in whole or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission [now planning board—see Charter § 5-201].

Sec. 11.7. - Special land use specific requirements.

The general standards and requirements of section 11.2, Standards for approval, are basic to all uses authorized by a special land use permit. However, certain special land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the City of Montrose, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met in addition to the general standard of section 11.2 and other sections of this zoning ordinance. Special land uses with specific site and/or use standards are described on the following pages:

1. Sexually oriented businesses.
2. Automobile service stations.
3. Banks, savings and loan and credit unions, and other businesses with drive-through facilities.
4. Bed and breakfast inns:
5. Car washes, automatic or self-service.
6. Churches.
7. Commercial outdoor recreation establishments (excluding golf related uses).
8. Commercial outdoor storage.
9. Convenience stores with gasoline service.
10. Extractive uses (commercial mining of sand, gravel, stone, and similar materials).
11. Nurseries and garden centers.
12. Home occupations.
13. Restaurants and other establishments with drive-in facilities or drive-through windows.
14. Salvage [yards] or junkyards.

(Ord. No. 305, § 1, 12-10-1996; Ord. No. 306, 3-11-1997; Ord. No. 317, § 4, 3-10-1998)

Sec. 11.8. - Special land use standards.

1. *Sexually oriented business.*
 - a. No sexually oriented business use shall be located within 1,000 feet of any other sexually oriented business use nor within 600 feet of any of the following uses:
 - (1) All class "C" establishments licensed by the Michigan Liquor Control commission.
 - (2) Pool or billiard halls.
 - (3) Coin-operated amusement centers.
 - (4) Teenage discos or dancehalls.
 - (5) Roller skating rinks.
 - (6) Any public park.
 - (7) Any church.
 - (8) Any public or private school having a curriculum including kindergarten or any one or more of the grades, one through 12.

Such distance shall be measured along the centerline of the street or streets or address between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the sexually oriented business use, and from the contemplated location of the structure containing the sexually oriented business use nearest to a use listed above.

- b. No sexually oriented business use shall be located within 500 feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on a boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the sexually oriented business use to a point on the contemplated structure or contemplated location of the structure containing the sexually oriented business use nearest to the boundary lines of a zoned residential area.
 - c. All sexually oriented business uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multiuses within the same structure do not constitute a freestanding building.
 - d. No sexually oriented business use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specific anatomical areas from any public way or from any property not regulated as a sexually oriented business. This provision shall apply to any display, decoration, sign, show window or other opening.
2. *Automobile service stations.*
- a. There shall be a minimum lot area of 10,000 square feet and minimum lot width of 100 feet.
 - b. Pump islands shall be a minimum of 15 feet from any public right-of-way or lot line.
 - c. Access driveways shall be located at least 25 feet from the intersection of any street or any other driveway, as measured from the nearest intersecting street right-of-way line, or edge of an adjoining driveway, whichever is applicable, to the nearest edge of the access driveway.
 - d. Where adjoining a residentially zoned district or use a solid fence or wall six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - e. Any repair work shall be conducted completely within an enclosed building.
 - f. There shall be no storage of vehicle components and parts, trash, supplies, or equipment outside of a building.
 - g. In the event that an automobile service station use has been abandoned or terminated for a period of more than one year, all underground gasoline storage tanks shall be removed from the premises.
3. *Car washes, automatic or self-service.*
- a. Only one ingress/egress driveway shall be permitted on any single street.
 - b. Where adjoining residentially zoned or used property a solid fence or wall six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - c. Sufficient stacking capacity shall be provided to ensure that traffic does not extend into the street. Self-service car washes shall provide a minimum of four stacking spaces (including one in the wash stall) per each washing stall. Automatic washes shall provide a minimum of 15 stacking spaces (including two in the washing facility). Spaces in addition to the minimum required shall be provided if determined by the planning

commission [now planning board—see Charter § 5-201] to be necessary to ensure that traffic does not extend into the street. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians and parking areas.

4. *Banks, credit unions, savings and loan and other businesses with drive-through facilities.*

- a. Only one ingress/egress driveway shall be permitted on any single street. If the use is located on a corner lot access to the drive-up facility shall be derived only from the street which carries the least amount of traffic at the time the application is approved, except that such access from any other street may be shared with an adjoining property.
- b. Sufficient stacking capacity for the drive-through facility shall be provided to ensure that traffic does not extend into the street. A minimum of five stacking spaces (including one space at the drive-through facility) per each drive-through facility station shall be provided.

Spaces in addition to the minimum required shall be provided if determined by the planning commission [now planning board—see Charter § 5-201] to be necessary to ensure that traffic does not extend into the street. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians, and parking areas.

5. *Bed and breakfast inns.*

- a. Parking areas shall be located off-street and shall not be located in any required front yard.
- b. No bed and breakfast inn shall be located closer than 300 feet to another bed and breakfast inn.
- c. Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests in the inn.
- d. The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and said operator shall live on the premises while the establishment is active.

6. *Churches.*

- a. Minimum lot shall be one acre plus an additional 15,000 square feet for each 100 persons of seating capacity.
- b. Buildings of greater than the maximum height allowed may be allowed, provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- c. Wherever the off-street parking area is adjacent to a residential district, a continuous and obscuring wall, fence, and/or landscaping screen at least four feet in height shall be provided along the sides of the parking area adjacent to the residentially zoned land.
- d. The site shall be so located as to have at least one property line abutting a street classified as a major street or collector street on the City of Montrose Act 51 Map. Existing churches and church lands purchased before the effective date of this ordinance, and not meeting these requirements shall not be prevented from constructing and/or expanding their facilities.

7. *Commercial outdoor recreation establishments (excluding golf related uses).*

- a. Such uses shall include, but need not be limited to, the following: recreational fields, rinks or courts, (including football, softball, soccer, tennis, basketball, ice skating, and similar activities) archery and shooting ranges, go-cart tracks, music concert pavilions and bandshells, amusement parks, and driving ranges open to the general public or operated by a private or nonprofit organization.
- b. No building or spectator seating facility shall be located within 100 feet of a property line.

- c. Provisions shall be taken, at the discretion of the planning commission [now planning board—see Charter § 5-201], to insure [ensure] that excessive dust, noise, traffic, lighting glare, and trespassing are not inflicted on adjacent properties.

8. *Commercial outdoor storage.*

- a. A special land use permit for commercial outdoor storage shall be required whenever such stored goods are not owned and/or produced by the owner of the property on which they are stored.
- b. Any stockpiles of dirt or other materials shall be immediately covered to prevent dust or blowing of materials.
- c. All outdoor storage areas shall be paved and include a stormwater drainage system approved by the city engineer.
- d. No outdoor storage shall be permitted in the front yard or in any required side yard or required rear yard of buildings for the district in which the commercial outdoor storage use is located.
- e. Where an outdoor storage area is adjacent to a residential zoned district or use, a solid fence or wall six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

9. *Convenience stores with gasoline service.*

- a. Minimum lot area shall be 10,000 square feet and minimum lot width shall be 100 feet.
- b. Pump islands shall be a minimum of 15 feet from any public right-of-way or lot line.
- c. Access driveways shall be located at least 25 feet from the intersection of any street or any other driveway, as measured from the nearest intersecting street right-of-way line, or edge of an adjoining driveway, whichever is applicable, to the nearest edge of the access driveway.
- d. When adjoining a residentially zoned district or use, a solid fence or wall six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
- e. In the event that the use of the property has been abandoned or terminated for a period of more than one year, all underground gasoline storage tanks shall be removed from the premises by the owner of record.
- f. Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained an obscuring landscaped greenbelt of not less than ten feet wide between the nearest point of the off-street parking area, exclusive of access driveways, and the right-of-way line.

10. *Extractive uses (commercial mining of sand, gravel, stone, and similar materials).*

- a. Extractive operations reasonably related to site development for building foundations, parking lot grading and preparation, grading for approved detention or retention ponds and/or intended to accommodate swimming pools, as determined by the zoning administrator, shall not require a special land use permit.
- b. All extractive uses shall be established and maintained in accordance with all applicable state statutes.
- c. The applicant shall submit a written statement describing:
 - (1) The equipment to be used and the process involved;
 - (2) A time period by which the excavation shall be completed, including a specified extension period should undue weather conditions arise;
 - (3) Indication of the proposed use of the property following the extraction;
 - (4) An approved reclamation plan;
 - (5) An agreement to conform to the standards of the zoning ordinance;

- (6) Documentation that demonstrates to the satisfaction of the planning commission [now planning board—see [§ 5-201](#)] that the extractive activities will not produce any serious consequences which will adversely affect the topography, drainage patterns, water bodies, floodplains, street conditions, nearby property values or use of land. The planning commission [now planning board—see Charter [§ 5-201](#)] may require separate environmental engineering, traffic impact or marketing studies supporting the need for and minimal consequences of such
- d. The planning commission [now planning board—see Charter [§ 5-201](#)] may require a performance bond or other guarantee to ensure compliance with the standards of this article. In addition, the planning commission [now planning board—see Charter [§ 5-201](#)] may require an occupancy permit to allow extractive activities for a time not exceeding one year. The permit may be renewed upon the finding by the zoning administrator that the applicant has complied with the requirements by the city and other appropriate agencies.
 - e. In order to ensure sublateral support, no machinery shall be erected or maintained within 50 feet of any property line or street right-of-way; or within 200 feet of any residential district.
 - f. Stormwater runoff shall be accommodated in a manner approved by the city engineer.
 - g. Creation of a lake or pond shall only be permitted where the applicant can demonstrate using engineering and hydrologic studies that the water can be maintained in a nonpolluted condition; and that the applicant meets any requirements by the Michigan Department of Natural Resources.
 - h. Truck routing shall be restricted to those streets designed to accommodate truck traffic on a yearround basis. The planning commission [now planning board—see Charter [§ 5-201](#)] may restrict access routes to protect the character or surrounding areas and/or street pavement and base conditions.
 - i. A reclamation plan shall be provided indicating final grades which are harmonious with surrounding grades and not in excess of five percent unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site; topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof.
 - j. The planning commission [now planning board—see Charter [§ 5-201](#)] may require that the site be enclosed with a six-foot high security fence with a locking access gate. Such fences shall be placed no closer than 50 feet to the top or bottom of any slope.
 - k. No slope shall exceed an angle with the horizontal of 45 degrees.
 - l. No building or structure shall be erected on the site, except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.
 - m. Proper measures shall be utilized to minimize the nuisance of noise and dust or airborne materials, as determined by the building administrator, and may include requirements on stockpiling size and/or covering of stockpiles.
11. *Nurseries and garden centers.*
- a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
 - b. All loading activities and parking areas shall be provided on the same premises.
 - c. The storage of any soil, fertilizer, or similarly loosely package materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
12. *Home occupations.*
13. *Restaurants and other establishments with drive-in facilities or drive-through windows.*

- a. The main and any accessory building shall be set back 25 feet from any adjacent public right-of-way line or prop
- b. Only one access shall be provided onto any street.

14. *Salvage [yard] or junkyards.*

- a. The salvage yard shall be enclosed on all sides by a solid wall or fence at least six feet in height. The wall or fence shall be maintained in good repair and shall be free of handbills or other advertising. Nontransparent gates not exceeding 48 feet in width shall be permitted in the enclosure.
- b. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the yard.
- c. No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residence, business, or street from a height at or below the top of the fence enclosing the yard.
- d. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
- e. The property shall include at least three acres.
- [f]g. The front obscuring fence shall be set back the same distance as a building in the industrial zoning district, and all such fences shall be set back a minimum of 500 feet from any residential use or district.
- [g]h. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours, provided that such activities shall not be conducted on Sundays or federally recognized holidays.
- [h]i. The applicant must demonstrate that the activities of the salvage [yard] or junkyard will comply with all state and federal regulations.
- [i]j. The planning commission [now planning board—see Charter § 5-201] may impose other conditions which have a reasonable relationship to the health, safety, and general welfare of the City of Montrose. These conditions can include a provision for an annual inspection by the city zoning administrator to ensure continuing compliance with the above standards.

(Ord. No. 305, § 1, 12-10-1996; Ord. No. 306, 3-11-1997; Ord. No. 317, § 5, 3-10-1998)

ARTICLE 12. - REVIEW AND APPROVAL PROCEDURES FOR SITE PLANS AND CONDOMINIUM DEVELOPMENT

Footnotes:

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State Law reference— *Site plans, MCL 125.3501; condominiums, MCL 559.101 et seq.*

Sec. 12.1. - Required site plan review.

Prior to the establishment of a new use, change of use, addition to an existing use, or the erection of any building in a zoning district, subject to the conditions listed below, a site plan shall be submitted and approved, approved with conditions, or disapproved by the city planning commission [now planning board—see Charter § 5-201] in accordance with the ordinance requirements of this article.

- 1. Site plan reviews are required for all permitted principal uses and structures in all zoning districts (except for the single-family detached and two-family dwellings and their accessory uses) and all special land uses in all

zoning districts.

2. When the proposed new construction or remodeling constitutes an addition to an existing building, or use, site plan review procedures may be modified, at the discretion of the zoning administrator, to provide for an administrative review by the zoning administrator in lieu of a more formal review by the city planning commission [now planning board—see Charter § 5-201]. The zoning administrator may conduct an administrative review provided both of the following are true:
 - a. No variances to the ordinance are required.
 - b. The proposed new construction would not increase the total square footage of the building greater than 25 percent or 1,000 square feet, whichever is less.
3. For those cases requiring site plan review solely as a result of building reoccupancy, site plan review procedures may be modified, at the discretion of the zoning administrator, to provide for an administrative review by the zoning administrator in lieu of a more formal review by the city planning commission [now planning board—see Charter § 5-201]. The zoning administrator may conduct an administrative review provided all of the following are true:
 - a. Such use is conducted within a completely enclosed building.
 - b. Reoccupancy does not create additional parking demands, beyond 25 percent of that which exists.
 - c. Reoccupancy does not substantially alter the character of the site.
4. Every site plan submitted for review shall be in accordance with the requirements of this ordinance. Administrative review procedures are not intended to modify any ordinance regulation or development standard.

Sec. 12.2. - Application procedure.

Application for site plan review shall be made by submitting the following materials to the zoning administrator at least 30 days prior to the planning commission [now planning board—see Charter § 5-201] meeting at which the site plan is to be considered:

1. Ten copies of a site plan containing all of the information required in section 12.3.
2. A completed application on an appropriate form provided by the zoning administrator.
3. Payment of an application fee, which shall be nonrefundable, may be established by the city council.

Sec. 12.3. - Required site plan contents.

1. A site plan submitted in accordance with this article shall contain all of the following information:
 - a. The date, north arrow, and scale. The scale shall not be more than one inch equals 20 feet.
 - b. The name and address of the individual responsible for the preparation of the site plan.
 - c. The property size in acres and square feet.
 - d. All existing and proposed lot lines and dimensions, including setback lines and existing easements.
 - e. The location of all existing structures, street rights-of-way, parking areas and driveways within 100 feet of the property.
 - f. The location and dimensions of all existing and proposed structures on the property.
 - g. The location and dimensions of all existing and proposed drives, sidewalks, fences, curb openings, signs, and

loading/unloading areas. Parking areas shall be shown, including the dimensions of a typical space and aisle. The total number of parking spaces to be provided and the method by which required parking was computed shall be noted on the site plan.

- h. Location of exterior site lighting shall be shown, including specification of the height and style of fixtures.
 - i. Location of exterior trash facilities, including type of screening.
 - j. The existing zoning of all properties abutting the subject property.
 - k. Locations and specifications for all proposed landscaping on the site, including size at time of planting, and species of all plant materials to be installed.
 - l. Size and location of existing and proposed sewer and water facilities and storm sewers including valves, hydrants, manholes, stormwater intakes and cleanouts.
 - m. Locations of all utilities on the site, including but not limited to natural gas, electric, cable television, and telephone.
 - n. Existing and proposed elevation contours shall be shown at two-foot intervals. Direction of drainage flows shall be indicated. If applicable, the boundary of any area within the 100-year floodplain, as determined by the Federal Insurance Administration flood insurance rate map, shall be identified.
2. The following documentation shall accompany the site plan:
- a. The name and address of the property owner and petitioner, if different, and proof of ownership or option to purchase by the petitioner.
 - b. Typical elevation views, with dimensions, of all sides of each principal building type.
 - c. Summary schedules with the following information, as applicable, shall be provided:
 - (1) Total site area.
 - (2) Net site area exclusive of right-of-way.
 - (3) Minimum, maximum, and average lot area.
 - (4) Number, size, and bedroom mix of dwelling units proposed.
 - (5) List of commercial uses proposed, and the gross floor area of each use.
 - (6) Area and percentage of site coverage by buildings, pavement and open space.
 - d. A legal description of the subject property, and a street address.
3. The zoning administrator may waive any of the requirements of [this] section 12.3, if such information is not necessary for the review of the site plan.

Sec. 12.4. - Site plan review standards.

All site plans shall comply with applicable provisions of this ordinance and with each of the following standards:

- 1. *Natural features.* Existing natural features of the site, including vegetation, topography, water features and other such features, shall be preserved to the greatest extent practical. Only those areas under actual development shall be disturbed.
- 2. *Building relationships.* Buildings and structures shall be placed in an orderly, nonrandom fashion such that an uncrowded, open appearance is maintained.
- 3. *Drives, parking, and circulation.*
 - a. Vehicular and pedestrian circulation shall be designed so as to provide for safe and efficient movement of

vehicles and pedestrians.

- b. Points of vehicular access to public streets shall be limited to the minimum number required to provide safe and efficient access. Points of access shall be directly aligned or be offset a minimum of 150 feet, wherever possible.
4. *Surface water drainage.* Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Temporary on-site storage to reduce peak runoff from the site may be required. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create standing water in the paved areas.
5. *Special features.* Exposed storage areas, trash areas, service areas, truck loading areas, utility buildings and structures and similar accessory areas shall be reasonably screened from view from adjoining streets, and adjoining properties.
6. *Emergency access.* The site plan shall provide for adequate access to the site and to all buildings for emergency vehicles.
7. *Exterior lighting.* The lighting shall be located and designed so that illumination is directed away from adjacent properties and streets.

Sec. 12.5. - Planning commission [now planning board] actions.

The planning commission [now planning board—see Charter [§ 5-201](#)], upon reviewing a site plan, shall take one of the following actions:

1. *Approval.* If the site plan meets all the zoning ordinance and related development requirements and standards, the planning commission [now planning board—see Charter [§ 5-201](#)] shall record such approval, and the chairperson shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the zoning administrator, and returning one to the applicant.
2. *Disapproval.* If the site plan does not meet zoning ordinance and related development requirements and standards, the planning commission [now planning board—see Charter [§ 5-201](#)] shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
3. *Conditional approval.* If minor corrections to the site are necessary, which can be clearly noted, then the planning commission [now planning board—see Charter [§ 5-201](#)] shall so note such conditions, and the chairperson shall sign three site plans as conditionally approved and stating the necessary conditions. One copy shall be retained in the official site plan file, one forwarded to the zoning administrator, and one returned to the applicant.
4. *Table.* If the site plan is found to be in violation of the requirements or incomplete with respect to necessary information, the planning commission [now planning board—see Charter [§ 5-201](#)] may table action on the site plan until ordinance compliance is shown or required additional information is provided.

Sec. 12.6. - Time limit for approved site plans.

1. A site plan approval granted pursuant to this article shall be valid for six months from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall be deemed expired and no longer valid.

2. The planning commission [now planning board—see Charter § 5-201] may grant no more than one extension of the plan approval for a six-month period, upon submittal in writing by the applicant of a request for an extension. The planning commission [now planning board—see Charter § 5-201] shall grant such an extension only upon presentat written evidence indicating that construction of the project has been delayed by factors beyond the reasonable con the applicant and that construction on the project is likely to proceed within six months.

Sec. 12.7. - Changes to approved site plans.

1. Amendments to an approved site plan may be made, provided such amendments are in conformance with this ordinance, and provided such amendments receive the mutual agreement of the applicant and the city. Requests for approval of amendments shall be submitted to the zoning administrator.
2. Upon receipt of a request for an amendment to an approved site plan, the zoning administrator shall determine whether such amendment constitutes a major amendment to the site plan. Any change or amendment which results in any of the following shall be considered a major amendment:
 - a. Any change in the use or increase in the intensity of use of land, buildings, or other structures.
 - b. An increase of 25 percent or more in the square footage or land coverage of buildings or other structures.
 - c. Any reduction in area or number of off-street parking spaces, aisles or loading/unloading areas.
 - d. Any reduction in street or driveway width or location.
 - e. Any reduction in area of landscaped area or open space.
 - f. Any reduction in number or size of plant materials, or substitution of lesser-quality plant materials for those originally included in the site plan.
 - g. Any reduction in level of intensity or degree of screening.
3. Major amendments to a previously approved site plan shall be subject to the review and approval of the planning commission [now planning board—see Charter § 5-201].
4. Any amendment to an approved site plan which is determined by the zoning administrator as not being a major amendment may be mutually agreed to by the applicant and the zoning administrator.

Sec. 12.8. - Required condominium development review.

The following review process shall apply to all condominium projects within the City of Montrose:

1. Concurrently with notice required to be given to the City of Montrose pursuant to section 71 of Public Act. No. 59 of 1978, as amended (MCL 559.171) a person, firm, corporation or other legal entity intending to develop a condominium project shall file with the zoning administrator the following information with respect to the projects:
 - a. All names, address and telephone numbers of:
 - (1) The person, firm, corporation or other legal entity with an ownership interest in the land on which the project will be located together with a statement that the entity is a fee owner or land contract purchaser.
 - (2) All engineers, attorneys, architects, and licensed land surveyors, involved in the condominium project.
 - b. The legal description of the land including tax identification numbers.
 - c. The total acreage.

- d. The intended use.
 - e. The number of units to be developed.
 - f. A copy of the proposed master deed.
2. Condominium projects shall contain all information required by the Condominium Act.
 3. The information shall be filed with the city clerk at the time the information is filed with the zoning administrator, and shall be kept current.
 4. Application for condominium review shall be made at least 30 days prior to the planning commission [now planning board—see Charter § 5-201] meeting at which the condominium project is to be considered. Payment of an application fee which shall be nonrefundable, may be established by the city council.

Sec. 12.9. - Approval of plans.

All condominium plans must be approved by the planning commission [now planning board—see Charter § 5-201]. In making determination, the planning commission [now planning board—see Charter § 5-201] shall consult with the zoning administrator, city attorney, and the city engineer regarding the adequacy of the master deed, deed restrictions, utility systems, streets, project design, and layout and compliance with the Condominium Act [MCL 559.101 et seq.]. All condominium developments must conform to the following requirements:

1. *Streets and necessary easements.*
 - a. The condominium plan shall include all necessary easements granted to the City of Montrose for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits, and other installations of a similar character (commonly called "public structures") for the purpose of providing public utilities, including conveyance of sewage, water and stormwater runoff across, through and under the property subject to said easement, and excavating and filling ditches and trenches necessary for the location of said structures.
 - b. Condominium projects with streets shall comply with all street requirements of the City of Montrose. Projects which connect public streets shall have the project street dedicated to the public.
2. *Setbacks and boundaries.*
 - a. Single-family detached units [shall have the following specifications]:
 - (1) Front yard setback. One-half the approved or recorded street right-of-way plus the current setback for the existing zoning.
 - (2) Side yard setback. The distance between units shall be twice the zoned minimum of a typical single lot side yard setback. The distance from the unit to the limit of development shall meet the existing zoned minimum.
 - (3) Rear yard setback. The distance between the rear of two units shall be twice the zoned minimum rear yard setback of a typical single lot rear yard setback. The distance from the rear of the unit to the limits of the development shall meet the existing zoned minimum.
 - b. Multiple-family buildings shall meet the standards of multiple-family development.
 - c. The relocation of boundaries as defined in section 148 of the Condominium Act [section 148 of Public Act No. 59 of 1978] shall conform to all setback requirements of this ordinance for the district in which the project is located. Plans shall be submitted to the planning commission [now planning board—see

Charter § 5-201] for review and approval and any requirements shall be made a part of the bylaws and recorded as part of the master deed.

3. *Common elements.* After construction of a condominium unit, the undeveloped area of a unit site shall become a common element.
4. *Encroachment.* A condominium project shall not be constructed in a manner that intentionally creates an encroachment.
5. *Subdivision of unit sites.* Subdivision of condominium unit sites is prohibited and shall be made as part of the bylaws and recorded as part of the master deed.
6. *Water and waste water.* A condominium project shall be connected to the city water and sewer system.
7. *Expansion and conversion.* Prior to expansion or conversion of a condominium project to additional land, a new phase must be approved by the planning commission [now planning board—see Charter § 5-201].
8. *Master deed.* The project developer shall furnish the zoning administrator with one copy of the proposed consolidated master deed, one copy of bylaws and two copies of the proposed plans. Fees for this review shall be established by the city council.
9. *As-built plan and occupancy.* Submission of an as-built plan for a condominium unit is required prior to occupancy. The zoning administrator may allow occupancy of the project before all improvements are installed, provided that a bond is submitted to the city's clerk, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the city. The amount of the bond shall be determined by the city's engineers.
10. *Final bylaws, consolidate master deed and site plan.* After approval, the developer shall furnish the city with a copy of the bylaws and consolidated master deed. The site plan shall be provided on a mylar sheet of at least 24 inches by 36 inches.
11. *Compliance with other statutes and ordinances.* All condominium projects shall comply with all applicable federal and state laws.

ARTICLE 13. - PARKING AND LOADING-UNLOADING STANDARDS

Sec. 13.1. - Purpose.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy.

Sec. 13.2. - General requirements.

1. Off-street parking spaces may be located within a rear yard or within a nonrequired side yard unless otherwise provided in this ordinance. Off-street parking shall not be permitted within a required front yard or within a required side yard setback unless otherwise provided in this ordinance.
2. Off-street parking shall be on the same lot of the building it is intended to serve, except as may be otherwise provided for by this ordinance.
3. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveways, garage, or

combination thereof and shall be located on the premises they are intended to serve.

4. Minimum required off-street parking spaces shall not be replaced by any other use unless equal parking facilities are provided elsewhere.
5. Off-street parking existing at the effective date of this ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
6. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces for the uses calculated individually may be reduced by up to ten percent if a signed agreement is provided by the property owners, and the planning commission [now planning board—see Charter § 5-201] determines that the peak usage will occur at different periods of the day and there is potential for a parker to visit two or more uses.
7. The use of parking areas for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited. The use of semitrailers for storage purposes on the premises for five or more consecutive days is prohibited.

(Ord. No. 308, § 2, 5-13-1997)

Sec. 13.3. - Parking units of measurement.

1. *Floor area.*
 - a. Where floor area is the unit for determining the required number of off-street parking and loading spaces, said unit shall mean the gross floor area (GFA), unless otherwise noted.
 - b. Where the floor area measurement is specified as gross leasable floor area (GLA), parking requirements shall apply to all internal building areas excluding the floor area used for incidental service, storage, mechanical equipment rooms, heating/cooling systems and similar uses, and other areas not intended for use by the general public. Where these areas are not yet defined, leasable floor area shall be considered to be 85 percent of the gross floor area.
 - c. In calculating bench seating for places of assembly, each 24 inches of benches, pews or other such seating shall be counted as one seat.
 - d. Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises during the peak shift.
 - e. When units of measurements determining the number of required parking or loading spaces result in a fractional space, any fraction shall be counted as one additional space.

Sec. 13.4. - Parking space numerical requirements.

The minimum number of off-street parking spaces shall be determined by the type of use in accordance with the following schedule. For uses not specifically listed below, the required parking shall be in accordance with that of a similar use as determined by the zoning administrator, or determined by the planning commission based on documentation regarding the specific parking needs of the use. For uses with two or more activities, minimum parking shall be calculated separately and combined, unless noted specifically below or the additional uses are defined as "accessory uses" by the zoning administrator. The area bordered by Hickory Street to the north, Maple Street to the south, State Street (M-57) between the east side of Saginaw Street and extending to the west side of Genesee Street, is exempt from the parking space numerical requirements of this section.

Use	Number of minimum parking spaces per unit of measure
Residential	
Single- or two-family unit	2.0 spaces per dwelling unit.
Multiple-family dwelling	2.0 spaces per dwelling unit plus 0.25 parking spaces per unit for visitor parking.
Mobile home park	2.0 spaces for each mobile home site and one for each employee of the mobile home park.
Housing for the elderly	
Senior independent units	1.5 spaces per unit.
Senior "interim care" and intermediate care units retirement villages, etc.	1.0 space per each room or two beds, whichever is less, plus one space per each employee expected during the peak shift.
Convalescent homes, nursing home units, rest homes, etc.	1.0 space per each three beds or two rooms, whichever is less, up to 120 beds; plus three spaces per each additional eight beds over 120 beds.
Institutional	
Churches, and places of worship	1.0 space for each three seats or six feet of pews in the main unit of worship.
Hospitals	1.0 space for each one bed.
Elementary, junior, and senior high schools	1.0 space for each teacher, employee, or administrator, and for senior high schools 1.0 space for each ten students.
Private clubs or lodge halls	1.0 spaces for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.

Office	
Medical/dental clinic/office	7.0 spaces per 1,000 sq. ft. gross floor area.
Medical clinic: outpatient facility, emergency care/24-hour medical stations, etc.	2.0 spaces per exam or outpatient procedure/operating room, plus one space per laboratory or recovery room, plus one space for each two rooms for employee parking.
General office building	<u>3.5</u> spaces per 1,000 sq. ft. gross floor area.
Bank, credit union, savings and loan facilities	5.0 spaces per 1,000 sq. ft. gross floor area plus 2.0 spaces per each 24-hour teller.
Commercial/retail/service	
Appliance stores	4.0 spaces per 1,000 sq. ft. gross leasable floor area.
Automobile service station without convenience goods	2.0 spaces per each service bay, plus 1.0 space per each employee on peak shift.
Automobile sales	1.0 space per 200 sq. ft. gross leasable floor area, plus 3.0 spaces per each auto service bay.
Car wash facilities	2.0 spaces, plus 1.0 space per each employee on peak shift.
Barbershop/beauty salon	2.5 spaces per each barber or beautician's chair/station.
Convenience store, with or without gasoline service	4.0 spaces per 1,000 sq. ft. gross leasable floor area.
Discount store	5.0 spaces per 1,000 sq. ft. gross leasable floor area.
Dry cleaners	2.0 spaces per 1,000 sq. ft. gross leasable floor area.
Equipment repair	1.0 spaces per 800 sq. ft. gross leasable floor area.
Funeral homes	1.0 space per 50 sq. ft. of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on the premises.

Hardware/paint/home improvement store	3.0 spaces per 1,000 sq. ft. gross leasable floor area.
Ice cream parlor with or without food and with no seating.	12.0 spaces per 1,000 sq. ft. gross leasable floor area, with a minimum of 8.0 spaces provided.
Laundromat	1.0 space per each two washing machines.
Miniwarehouse, self-storage warehouse	Minimum of 6.0 spaces.
Motel/hotel with lounge restaurant, conference or banquet rooms or exhibit	1.0 space per guestroom plus 10.0 spaces per 1,000 sq. ft. of lounge, restaurant, conference or banquet rooms.
Motel without restaurant/lounge; bed and breakfast inn	1.0 space per guest room, plus 1.0 space per employee.
Recreational vehicle, boat mobile home and similar sales	1.0 space per 800 sq. ft. gross leasable floor area, plus 2.0 spaces per each vehicle sales service bay.
Restaurant — sit down type (with liquor license)	16.0 spaces per 1,000 sq. ft. gross leasable floor area, or 0.6 spaces per seat, whichever is greater.
Restaurant — sit down type (without liquor license)	12.0 spaces per 1,000 sq. ft. gross leasable floor area, or 0.5 spaces per seat, whichever is less.
Shopping center	4.0 spaces per 1,000 sq. ft. gross leasable floor area, plus spaces required for supermarket, if included.
Showroom of a plumber, decorator or similar trade	1.0 space per 800 sq. ft. gross leasable floor area.
Supermarket	4.5 spaces per 1,000 sq. ft. gross leasable floor area.
Video rental establishments	8.0 spaces per 1,000 sq. ft. gross leasable floor area, with a minimum of 6.0 spaces provided.
Other general retail uses not elsewhere listed	5.0 spaces per 1,000 sq. ft. gross leasable floor area.
Recreation/entertainment	
Bowling centers	5.0 spaces per lane plus 1.0 space per employee at peak shift.

Commercial outdoor recreation centers	5.0 spaces per 1,000 sq. ft. gross floor area.
Museums	1.0 space per 350 square feet of public display area but not less than 10.0 spaces. In addition, there shall be provided 1.0 space per 100 square feet of non-display area but not less than 2.0 spaces.
Industrial	
Light industrial, manufacturing, testing labs, research and development centers	1.5 spaces per 1,000 sq. ft. gross floor area.
Warehousing	1.0 space per each 1,500 sq. ft. gross floor area, or 1.0 space per employee at peak shift, whichever is greater.

(Ord. No. 354, § 1, 8-13-2002; Ord. No. 414, 9-13-2012)

Sec. 13.5. - Barrier free parking requirements.

Each parking lot that services a building entrance, except single-family and two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by signs as reserved for physically handicapped persons:

Total spaces in parking lot	Required number of accessible spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
<u>101</u> to 150	5
151 to 200	6
201 to 300	8

301 to 400	12
Over 400	12 plus 2 for every 250 or fraction thereof over 400

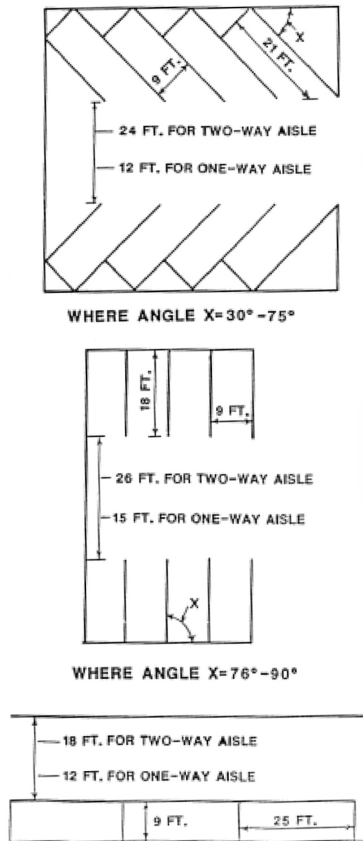
Parking spaces for the physically handicapped shall be a minimum of 12 feet wide and must meet all other applicable requirements of the Americans With Disabilities Act.

Sec. 13.6. - Off-street parking space design standards, and setback requirements.

When required, off-street parking facilities shall be designed, constructed and maintained according to the following standards and regulations:

1. Adequate ingress and egress to the parking facility shall be provided by clearly defined driveways. All driveways and parking lots shall be a concrete or asphalt surface in accordance with specifications of the City of Montrose.
2. All spaces shall be provided adequate access by means [of] maneuvering lanes.
3. All parking lot or display lighting shall be designed, located and/or shielded to prevent spill over onto adjacent properties, and shall be arranged to prohibit adverse affects on motorist visibility on adjacent public roadways. The maximum height of parking lot light fixtures shall be 20 feet for any lot within 150 feet of a residential district, and a maximum height of 40 feet in all other parking lots.
4. Curbing or bumper blocks shall be provided where parking spaces abut landscaping, property lines, sidewalks or required setback areas.
5. Parking lots shall be designed to prevent vehicles from backing into the street.
6. Parking lots shall have a minimum setback of ten feet from any property line that is not a street right-of-way line. This requirement may be waived by the planning commission [now planning board—see Charter § 5-201] where a shared access driveway connecting parking lots is provided.
7. Parking lots shall have a minimum rear and side yard setback of 20 feet from any residential zoning district. This setback area shall include either:
 - a) A wall to screen headlights, which must be six feet tall and be made of an ornamental/decorative masonry material; or
 - b) Berming, which must be at least three feet high with a two-foot flat area on top and side slopes not exceeding a 3:1 slope ratio. Trees should be planted at a rate of one tree per 30 lineal feet or eight shrubs could be substituted for each required tree.
8. All spaces shall be designed and marked with dimensions described below and shown in Figure 7:

FIGURE 7
OFF-STREET PARKING DESIGN STANDARDS



(Ord. No. 308, § 3, 5-13-1997)

Sec. 13.7. - Parking lot construction and maintenance.

1. Plans and specifications for parking areas shall be submitted to the zoning administrator prior to the issuance of a building permit. These plans shall include:
 - a. Existing and proposed grades.
 - b. Indication that stormwater runoff shall be accommodated on-site through approved drainage facilities, including catchbasins, runoff calculations, pipe sizes and connections to existing drainage structures.
 - c. Indication of surface and base materials to be used during construction.
2. Required parking lots shall be installed and completed within six months of receipt of a building permit and before issuance of an occupancy permit. The zoning administrator may grant a single extension for an additional six months in the event of adverse weather conditions or unusual delays beyond the control of the property owner.
3. The visibility of pavement markings delineating parking spaces and directional control shall be maintained.

Sec. 13.8. - Parking lot landscaping.

Off-street parking areas shall be landscaped as follows:

1. In off-street parking areas containing 20 or more parking spaces, an area equal to at least five percent of the total parking area shall be used for interior landscaping. Whenever possible, parking lot landscaping shall be arranged to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the

appearance of the parking area, through the even distribution of the landscape effort across the total off-street parking area, rather than to concentrate all effort in one location.

2. Parking lot landscaping shall be not less than five feet in any single dimension and not less than 150 square feet in any single island area. Not more than two landscaped units of 150 square feet may be combined in plans designed to meet the minimum requirements.
3. The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.
4. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
5. A minimum of one deciduous tree shall be planted in each landscaped area.

Sec. 13.9. - Off-site parking facilities.

Required parking for a development may be located off-site under certain circumstances. Requests for off-site parking must meet the following requirements:

1. *Residential uses.* Parking facilities accessory to dwelling units shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings (such as churches) may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served; but in no case at a distance in excess of 300 feet from such zoning lot.
2. *Nonresidential uses.* Parking facilities accessory to nonresidential uses may be located on other than the same lot as the use served (off-site). All required parking spaces shall be within 500 feet of such zoning lot. No parking spaces accessory to a use in a business or industrial district shall be located in a residential district unless authorized by the planning commission [now planning board—see Charter [§ 5-201](#)].
3. *Agreement required.* A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned assuring [ensuring] the continued availability of the off-site parking facilities for the use they are intended to serve.

Sec. 13.10. - Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

	Total floor area of the building	Off-street loading space requirements
Office use	0—10,000 square feet	One usable loading space 10' × 25'.
	10,001—50,000 square feet	One usable loading space 10' × 50'.
Commercial and industrial uses	0—1,400 square feet	One usable loading space 10' × 25'.
	1,401—20,000 square feet	One usable loading space 10' × 50'.
	20,001—50,000 square feet	Two usable loading spaces, each 10' × 50'.

1. All loading spaces shall be in addition to the off-street parking area access drive, and maneuvering lane

requirements.

2. Off-street loading space shall have a clearance of 14 feet in height.
3. Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building, provided that where any portion of a loading space is open to public view, said space shall be screened.
4. All loading and unloading in the industrial district shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least 50 feet.

ARTICLE 14. - RESERVED

Footnotes:

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Editor's note— Ord. No. 388 adopted Sept. 12, 2006, repealed art. 14, §§ 14-1—14-5, which pertained to sign standards and derived from Ord. No. 307, § 1, adopted March 11, 1997 and Ord. No. 353, § 1, adopted May 14, 2002. See ch. 52 signs, for sign regulations.

Secs. 14-1—14-5. - Reserved.

ARTICLE 15. - GENERAL PROVISIONS

Sec. 15.1. - Required area or space.

1. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this ordinance. If already less than the minimum requirements of this ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this ordinance. Lots or yards created after the effective date of this ordinance shall comply with the requirements of this ordinance.
2. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this ordinance concerning required yards.

Sec. 15.2. - Projections into yards.

1. Certain architectural features, such as cornices, eaves, gutters, chimneys, pilasters and similar features may project (i) no further than three feet into a required front yard; (ii) no further than five feet into a required rear yard; and (iii) no further than two feet into a required side yard, with the exception of the CBD zoning district.
2. An unenclosed stoop, deck, balcony, or window awning may project: (i) no further than eight feet into a required front yard; and (ii) no further than 15 feet into a required rear yard. Projection of such building appurtenances into a required side yard shall be prohibited. In no case shall a balcony, stoop, deck or awning be placed closer than five feet to any front or rear lot line, with the exception of the CBD zoning district.

Sec. 15.3. - Building height exceptions.

The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers, and scenery lofts, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances.

Sec. 15.4. - Accessory buildings and structures.

Accessory buildings or structures, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this ordinance applicable to the main building.
2. Accessory buildings and structures shall not be erected in any front yard.
3. No detached accessory building shall be located closer than ten feet to any main building nor shall any accessory building or structure be located closer than five feet to any side or rear lot line.
4. Maximum size of accessory buildings [shall be as follows:]
 - a. Detached accessory buildings and structures in residential districts.

(1) An accessory building shall be subject to the following schedule:

Size of parcel	Maximum gross square footage of accessory structure
Less than 2.00 acres	2,000 square feet
2.00 to 2.99 acres	2,500 square feet ¹
3.00 to 3.99 acres	3,000 square feet ¹
4.00 acres or more	3,500 square feet plus 500 square feet for each additional full acre above 4.00 acres ¹

(2) Multiple accessory structures are permitted, subject to city review and approval; however, the combined total square footage of the accessory structures cannot exceed the maximum gross square footage per the schedule above.

(3) An accessory building shall not occupy more than 25 percent of a required rear yard.

- b. Detached accessory buildings and structures in nonresidential districts.

(1) An accessory building shall not occupy more than 25 percent of a required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building it is accessory to.

- (2) Multiple accessory structures are permitted, subject to city review and approval.
5. Height of accessory buildings (shall be as follows:)
- a. Detached accessory buildings and structures in residential districts.
 - (1) A detached accessory building or structure may be constructed equal to the permitted maximum building height of 16 feet in said districts.
 - (2) The vertical exterior surface of a building, not forming part of the roof, shall not exceed a height of 16 feet, measured from grade to the top place of the wall.
 - (3) The pitch of the roof of the accessory building shall not be less than four feet of rise for each 12 feet of horizontal run; however, no part of the roof system shall exceed 30 feet. Flat and mansard type roofs shall not be permitted.
 - b. Detached accessory buildings and structures in nonresidential districts.
 - (1) Detached accessory buildings or structures in all non residential districts may be constructed equal to the permitted maximum building height in said districts, subject to zoning board of appeals review and approval, if the building or structure exceeds one story or 15 feet in height.
6. When an accessory building is located on a corner lot, the lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot.

(Ord. No. 327, § 1, 12-14-1999; Ord. No. 339, § 2, 1-9-2001; Ord. No. 412, 5-10-2012)

Sec. 15.5. - Regulations applicable to single-family dwellings.

Any single-family dwelling, whether constructed and erected on a lot or a manufactured home, shall be permitted only if it complies with all of the following requirements:

1. If the dwelling unit is a mobile home, the mobile home must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or (ii) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (i) above, and found, on inspection by the zoning administrator or his designee, to be in excellent condition and safe and fit for residential occupancy.
2. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes which are or may be adopted by the city, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by city codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with standards or regulations shall be provided to the building inspector.
3. The dwelling unit shall comply with all restrictions and requirements of this section, including without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the zoning district in which it is located.
4. If the dwelling unit is a mobile home, the mobile home shall be installed with the wheels removed.
5. The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of 24

feet.

6. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundations to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a mobile home, its foundation and skirting shall fully enclose the chassis, undercarriage and towing mechanism.
7. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for mobile home parks.
8. Storage area within a building with an area of no less than 120 square feet shall be provided. This storage area may consist of a basement, closet area, attic, or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of this ordinance pertaining to accessory buildings.
9. Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided in accordance with the City of Montrose Building Code.
10. The pitch of the main roof of the dwelling unit shall not be less than three feet of rise for each 12 feet of horizontal run.
11. The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
12. The dwelling unit shall have not less than two exterior doors, with one being in either the rear or the side of the dwelling unit.

Sec. 15.6. - Temporary buildings and structures.

Temporary buildings and structures including, but not limited to, trailers and dumpsters incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:

1. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste or fuel facilities, related to construction activity on the same lot.
2. No temporary building or structure shall be used as a dwelling unit.
3. The placement of temporary buildings and structures shall be in conformance with the requirements of [article 19](#). A building permit for such building or structure, except dumpsters, shall be issued by the building inspector prior to installation.
4. Temporary buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the building administrator for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.

(Ord. No. 315, § 1, 3-10-1998)

Sec. 15.7. - Frontage on a public street.

1. No building shall be erected on a lot unless said lot fronts its full width (as required by article 3) upon a street or road dedicated to the public, or designated on a recorded subdivision plat filed in the office of the county Register of Deeds.
2. In single-family residential districts, only one principal building shall be placed on a lot of record. Multi-family developments, commercial shopping centers, or industrial parks need not front each such structure upon such streets or roads provided that adequate interior vehicular circulation and access can be assured in a site plan submitted for approval to the city planning commission [now planning board—see Charter § 5-201].

Sec. 15.8. - Storage and repair of vehicles.

1. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not confined to the interior of the vehicle, shall be subject to the following limitations:
 - a. Procedures exceeding 48 hours in duration or which require the vehicle to be immobile or inoperable in excess of 48 hours shall be carried out within an enclosed building.
 - b. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.
2. Parking of commercial vehicles of up to one ton shall be permitted in all districts.
3. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or outdoor parking of semitractor trucks and/or semitrailers, bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless parked thereon while in use for approved construction on such lot.

Sec. 15.9. - Recreational vehicle storage.

1. The open parking or storage of tractors, boats, or similar vehicles not owned by the property owners or tenant of the city on lands not specifically designated for such parking or storage shall be permitted for a period of up to 72 hours. However, a travel trailer may be kept in the rear or side yard of a single-family lot for a period of up to four weeks provided a permit has first been secured from the zoning administrator.

Sec. 15.10. - Screening of trash storage areas.

1. In all multiple-family, commercial and industrial districts, there shall be provided an outdoor trash storage area. Any such area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. The requirement for such a trash storage area may be waived by the planning commission [now planning board—see Charter § 5-201] upon a finding that it is unnecessary due to the nature of the use, or owing to provisions for indoor trash storage.
2. A screen wall of six feet in height shall enclose three sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area shall be constructed of concrete which complies with local building code requirements.
3. In no instance shall any such refuse be visible above the required screening.
4. Any such storage area shall be located in a rear yard and/or be so located and arranged as to minimize its visibility from adjacent streets and uses. The planning commission [now planning board—see Charter § 5-201] may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.
5. All trash storage areas and/or enclosures shall be located a minimum of ten feet from any building or structure.

Sec. 15.11. - Fences; walls.

1. Notwithstanding other provisions of this ordinance, fences and walls may be permitted or required subject to the following:
 - a. No fence, wall, screening or planted materials with the exception of flowering annuals and perennials not to exceed 12 inches in height shall be erected in the road right-of-way.
 - b. No fence along a sidewalk shall be located nearer than one foot from the inside of the sidewalk line.
 - c. No fence, wall, screen or planted material shall be erected or maintained in such a way as to obstruct the vision of motorists existing driveways.
 - d. No fence, wall, screen or planted material shall be erected or maintained at a street corner in such a manner as to obstruct the vision of motorists within a triangular area formed by the intersection of the street right-of-way lines and a line connecting the two points on those lines located 15 feet from their point of intersection.
 - e. It is possible that lots located within a commercial or industrial zone may not contain commercial or industrial activities. If such lots contain only single-family dwellings, duplexes or apartment complexes, then such lots shall comply with the residential zone fence construction and restrictions paragraph in this ordinance.
 - f. Gates in fences shall not open over public property.
 - g. In areas zoned or used for residential purposes, privacy fences which block the vision shall, in addition to the other requirements of this ordinance, be subject to the following limitations:
 - (1) Privacy fences should not extend beyond the front facade of a residential structure; and
 - (2) All privacy fences are subject to review by the planning commission [now planning board—see Charter § 5-201] and/or its designee.
 - h. All fences shall be constructed with the finished side of fence facing the public.
2. The height of a fence or wall shall be computed as the distance from the base of the fence or wall, at grade level to the top of the highest component.
3. Height requirements shall be as follows:
 - a. Residential fences. All fences and walls in areas zoned or used for residential purposes shall not exceed six feet in height above grade level, except front yard fences, such as chainlink or decorative wrought iron fences which do not block the vision, which shall not exceed four feet in height above grade level.
 - b. Business, office, or commercial fences. All fences and walls in areas zoned or used for business, office, or commercial purposes shall not be more than six feet in height above grade level.
 - c. Industrial fences. All fences and walls in areas zoned or used for industrial purposes shall not exceed eight feet in height above grade level.
 - d. Fences and walls for parks, schools, public buildings, and other institutional uses. The height and type of fences or walls enclosing municipal parks, public and parochial school grounds, public buildings and church grounds or land used for playgrounds, parks, picnic areas, golf courses, golf driving ranges or similar facilities for outdoor exercise and recreation shall require the approval of the planning commission [now planning board—see Charter § 5-201] after receiving the recommendation of the zoning administrator.
4. Fences and walls shall be constructed of wood, metal or masonry, and other acceptable materials, excluding plastic interwoven weave designs. Only new material shall be used, which has been manufactured and/or treated

in a manner to prevent rust and corrosion, and/or rot and decay. No person shall erect or cause to be erected a fence which is:

- a. Made with or upon which is fixed barbed wire; or
 - b. Has any protective spike, nail, or sharp pointed object; or
 - c. Charged with electric current.
5. All fences and walls must be located entirely on the private property of the person constructing the fence or wall, or provided that if the adjoining property owners consent in writing to the construction of a fence or wall on their property line, it may be constructed on the property line. Such written consent shall be filed with the zoning administrator.
 6. No fence or wall shall be erected between the front building line and the front property line of a commercial or industrial use.
 7. Fences and walls must be maintained in a neat and safe condition, so as not to endanger life or property. Any fence or wall which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. The building inspector shall notify the owner, agent, or person in control of the property on which such fence or wall is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence or wall safe or require that the unsafe fence or wall or any portion thereof to be removed and shall provide a time limiting such repairs, modification, or removal.
 8. Fences and walls presently in existence shall not be enlarged, rebuilt, or reconstructed without first obtaining a permit from the zoning administrator. Such fences, when replaced, shall conform with all provisions of this ordinance.
 9. Any newly rezoned property shall comply with all fence and wall requirements for the newly zoned district.
 10. No fence shall be erected or altered without first obtaining a permit from the city zoning administrator.
 - a. Written application for this permit shall contain a drawing showing the location, type of fence to be constructed, description of the property, and such other information as the zoning administrator shall deem necessary.
 - b. The city may impose a reasonable fee for processing a permit application.

(Ord. No. 316, §§ 1, 2, 7-14-1998; Ord. No. 336, § 1, 9-22-2000)

Sec. 15.12. - Rummage sales.

1. Such sale to be conducted only by the owners or occupants of the premises on which the sale is located.
2. No more than three rummage sales shall be conducted by any person, firm, corporation, or organization in any one calendar year.
3. Each rummage sale may be one to ten days in duration only. A rummage sale which continues beyond ten days shall be considered commercial activity in a noncommercial zone and shall be a violation of the City of Montrose Zoning Ordinance.
4. There shall be at least one week lapse between any two rummage sales.
5. No sign advertising a rummage sale shall violate any of the provisions of the City of Montrose Zoning Ordinance, article 14, Sign standards.

Sec. 15.13. - Filling operations.

1. It shall be unlawful for any person, firm, corporation, partnership or other organization or entity to use any land for with materials of any kind without a permit granted by the planning commission [now planning board—see Charter 201]. (Exception: Incidental filling as determined by the zoning administrator.)
2. An application for a permit to fill shall be filed with the zoning administrator, who shall inspect the property to be filled and forward his written recommendation to the planning commission [now planning board—see Charter § 5-201] with the application.
3. The planning commission [now planning board—see Charter § 5-201] may require such documents as may be reasonably necessary to assist it in making decisions.
4. The planning commission [now planning board—see Charter § 5-201] may impose such conditions as it deems necessary to safeguard the public health, safety and the general welfare. By way of illustration, and not limitation, the following types of conditions may be imposed:
 - a. Control over the distance from adjoining property within which no activity may be conducted.
 - b. The kind and depth of fill material.
 - c. The kind and depth of material to be used at the top of the grade.
 - d. The grade of the area which must be established at the expiration of the permit term.
 - e. Reasonable measures to prevent air and noise pollution.
 - f. Reasonable measures to keep public roads free of excess dirt, mud, and dust, and keep the streets clean.
 - g. All existing storm sewers, sanitary sewers and natural watercourses crossing property shall not be obstructed due to the filling operation or through change in present elevations.
 - h. Adequate measures shall be taken to control dust.
 - i. A restriction of the days of the week and hours of the day during which time a filling operation may be conducted.

Sec. 15.14. - Keeping of animals.

1. The keeping of household pets, including dogs, cats, rabbits, fish, birds, hamsters, and other animals generally regarded as household pets, is permitted as an accessory use in any residential zoning district. However, no more than a total of five animals shall be kept or housed in or at one dwelling unit.
2. The keeping of animals not normally considered household pets, including, but not limited to, pigs, horses, sheep, cattle, poultry, reptiles, and wild animals, is prohibited in all zoning districts.

Sec. 15.15. - Antennas and towers and satellite dish antennas.

Radio or television antennas or towers, including satellite dish antennas and transmission or reception antennas erected or installed in any zoning district, shall comply with the following requirements:

1. An antenna or tower, with the exception of a satellite dish antenna, shall be located only in a side or rear yard. A satellite dish antenna shall be located only in a rear yard.
2. No portion of antenna, including a satellite dish antenna, shall be located closer than six feet, measured on a horizontal plane, from any side or rear lot line, or placed on any easement.
3. Ground-mounted antenna, including satellite dish antennas, in a yard fronting on a public street shall be screened from such street by landscaping or a wall and the site approved by the planning commission [now planning board—see Charter § 5-201], which shall require a sketch plan indicating the location of the satellite

- dish and buildings, paved areas and other appropriate site features within 100 feet of the proposed location.
4. The height of an antenna, with the exception of a satellite dish antenna, shall not exceed 50 feet above mean grade or ten feet above the peak of the roofline, in any residential zoning district, and shall not exceed 100 feet above mean grade in any other zoning district.
 5. The height of a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 15 feet in height at its maximum point above mean grade.
 6. Notwithstanding the above, a satellite dish antenna having a diameter of 24 inches or less may be located in a side yard or attached to the roof of a building, provided that no portion of the satellite dish antenna extends more than 36 inches above the highest point of the roof.
 7. The installation of an antenna, including satellite dish antenna, shall require issuance of a building permit by the building official prior to erection.
 8. The diameter of a satellite dish shall not exceed 12 feet.
 9. No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna.
 10. No more than two antennas, including a maximum of one satellite dish antenna, shall be located on the same lot as a principal building. Antennas are permitted only in connection with, incidental to and on the same lot as a principal building, structure, or use.

(Ord. No. 337, § 1, 9-12-2000)

Sec. 15.16. - Private swimming pools.

1. Swimming pools will be required to comply by reference to the adopted Michigan Residential Building Code Appendix G Entitle, "Swimming Pools, Spas and Hot Tubs", including all future amendments of the 2009 Michigan Residential Building Code.

APPENDIX G.

SWIMMING POOLS, SPAS AND HOT TUBS

(The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.)

SECTION AG101

GENERAL

AG101.1 General. The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one- or two-family dwelling.

AG101.2 Pools in flood hazard areas. Pools that are located in flood hazard areas established by Table R301.2(1), including above-ground pools, on-ground pools and in-ground pools that involve placement of fill, shall comply with Sections AG101.2.1 or AG101.2.2.

Exception: Pools located in riverine flood hazard areas which are outside of designated floodways.

AG101.2.1 Pools located in designated floodways. Where pools are located in designated floodways, documentation shall be submitted to the building official, which demonstrates that the construction of the pool will not increase the design flood elevation at any point within the jurisdiction.

AG101.2.2 Pools located where floodways have not been designated. Where pools are located where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction.

SECTION AG102

DEFINITIONS

AG102.1 General. For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

ABOVE-GROUND/ON-GROUND POOL. See "Swimming pool."

BARRIER. A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

HOT TUB. See "Swimming pool."

IN-GROUND POOL. See "Swimming pool."

RESIDENTIAL. That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

SPA, NONPORTABLE. See "Swimming pool."

SPA, PORTABLE. A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

SWIMMING POOL, INDOOR. A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

SWIMMING POOL, OUTDOOR. Any swimming pool which is not an indoor pool.

SECTION AG103

SWIMMING POOLS

AG103.1 In-ground pools. In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Section AG108.

AG103.2 Above-ground and on-ground pools. Above-ground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section AG108.

AG103.3 Pools in flood hazard areas. In flood hazard areas established by Table R301.2(1), pools in coastal high hazard areas shall be designed and constructed in conformance with ASCE 24.

SECTION AG104

SPAS AND HOT TUBS

AG104.1 Permanently installed spas and hot tubs. Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section AG108.

AG104.2 Portable spas and hot tubs. Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section AG108.

SECTION AG105 BARRIER REQUIREMENTS

AG105.1 Application. The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

AG105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1,219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).
2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1,143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1¾ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches (44 mm) in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1,143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches (44 mm) in width.
6. Maximum mesh size for chain link fences shall be a 2¼-inch (57 mm) square unless the fence has slats fastened at the top or the bottom which reduce the openings to not more than 1¾ inches (44 mm).
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1¾ inches (44 mm).
8. Access gates shall comply with the requirements of Section AG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have

a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1,372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

- 8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate; and
 - 8.2. The gate and barrier shall have no opening larger than ½ inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
9. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:
- 9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or
 - 9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1,372 mm) above the threshold of the door; or
 - 9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.
10. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:
- 10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
 - 10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section AG105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

AG105.3 Indoor swimming pool. Walls surrounding an indoor swimming pool shall comply with Section AG105.2, Item 9.

AG105.4 Prohibited locations. Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb them.

AG105.5 Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in section AG107 of the code, shall be exempt from the provisions of sections AG105.2, AG105.3, and AG105.4 of the code.

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SECTION AG106

ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS

AG106.1 General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

2. Swimming pools, two feet or less above grade at any point shall not be located less than four feet from any lot line.
3. Swimming pools, in excess of two feet above grade at any point shall not be located less than ten feet from any lot line.
4. Swimming pools shall not be located in any front yard.

(Ord. No. 444, 8-20-2020)

Sec. 15.17. - Use variances.

An application for a use variance shall be subject to the requirements of section 18.6.

(Ord. No. 427, § 5, 1-14-2016)

Sec. 15.18. - Approval of temporary uses.

The city planning commission [now planning board—see Charter § 5-201] shall have the power to grant permits authorizing temporary land uses for:

1. Seasonal sales of produce, firewood, or Christmas trees, and similar uses [shall be conducted]under the following conditions:
 - a. Zoning district where permitted. Temporary uses shall be restricted to nonresidential zoning districts.
 - b. Application and submittal requirement. The application for a temporary use permit shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:
 - (1) The shape, location, and dimensions of the lot, including the shape, size, and location of all buildings or other structures already on the lot, off-street parking layout, and the location of any designated fire lanes.
 - (2) The materials to be utilized in and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.
 - (3) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.
 - c. Time Limitations.
 - (1) A temporary use permit for the sale of seasonal items such as flowers and similar uses shall by its terms be effective for no longer than 30 days. No more than one temporary use permit for the sale of Christmas trees shall be issued for any given location within a single calendar year. A permit for the sale of Christmas trees shall be for no more than 90 days.
 - (2) A temporary use permit for a vegetable, fruit, or produce stand or for the sale of firewood or similar use shall, by its terms, be effective for no longer than three months. No more than one temporary use permit for such uses shall be issued for any given location within a single calendar year.
2. Uses which do not require the erection of any capital improvement of a structural nature, such as, civic festival events and church fairs.
3. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
4. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held a further provided for in this ordinance.

Sec. 15.19. - Sidewalk sales.

1. In the central business district (CBD) zoning classification, a permit shall be required for conducting a sidewalk

sale or similar use.

2. A sidewalk sale is defined as the sale of clothing, books, jewelry, food and similar items, normally sold indoors, being displayed outside for sale.
3. All items for sale must be the merchandise of the business receiving a permit.
4. The terms of the permit shall be effective for no longer than five days. No more than six temporary use permits for sidewalk sales will be issued per individual/business operation within a single calendar year and there must be at least 30 calendar days between permit issuance dates.
5. Application for a permit shall be made to the zoning administrator. Approval of all permits may be authorized by the zoning administration.
6. Any business being denied a permit may appeal the decision to the city planning commission [now planning board—see Charter [§ 5-201](#)].

Sec. 15.20. - Street access.

1. Any lot created after the effective date of this ordinance shall have frontage upon a public street right-of-way or legally recorded access easement at least 66 feet in width.
2. Access driveways located on access easements or on a flagpole portion of a lot shall be surfaced with a durable pavement having an asphalt or cement binder.

Sec. 15.21. - Mechanical appurtenances.

1. Except in the CBD (central business) zoning district, mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, shall be placed not closer than 12 feet to any lot line.
2. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation air conditioning equipment, and other similar apparatus, located on the roof of any building shall comply with the following standards:
 - a. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
 - b. The apparatus and enclosure shall not exceed a height of ten feet above the surrounding roof surface, and shall not occupy greater than 15 percent of the total area of the roof of the building on which it is placed.

Sec. 15.22. - Litter, rubbish, junk storage and disposal.

1. No unwholesome substance shall be deposited, dumped, or accumulated by any person on any place or premises, private or public, situated in the city unless such place or premises is a landfill fully licensed as required by law for the receipt and disposal of the unwholesome substance or unless the unwholesome substance is completely shielded from public view and view from adjoining properties being housed within a building or structure.
2. As used in this section, those terms which appear below are defined as follows:
 - a. The term "building material" shall be defined as all items used or useful in the construction of a building or structure including, but not limited to, lumber, bricks, concrete blocks, cinder blocks, plumbing materials, electrical wiring and equipment, heating ducts and equipment shingles, mortar, concrete, cement, sand, and gravel.

- b. The term "inoperable" vehicle shall be defined to mean any vehicle which lacks any or all of the necessary components to make it operative and serviceable and/or which is not currently licensed, to the extent required, for use upon highways of the state.
- c. The term "junk" shall be defined to mean parts of machinery, vehicles or boats, used stoves or other appliances, plumbing fixtures, furniture stored in the open, iron, steel and other ferrous or nonferrous materials, batteries, remnants of wood, and, in general, any other castoff material of any kind, whether or not the same could be put to any reasonable use.
- d. The term "motor vehicle body" shall be defined to mean any motor vehicle (i) which is unable to be driven upon a highway under its own power and/or which lacks all of the necessary component parts to make it operative and serviceable as a motor vehicle, or (ii) which is not currently licensed for use upon the highways of the state.
- e. The term "trash" shall be defined to mean all of the following: (i) garbage, i.e., all organic refuse and rejected food waste; (ii) ashes, i.e., the residue left from burning of paper leaves, weeds, wood, and coal; (iii) kitchen rubbish, i.e., all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper and wood boxes, and metal objects; (iv) household rubbish, i.e., all types of household materials commonly discarded such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings; and (v) yard rubbish, i.e., all materials which grow on the property such as grass clippings, weeds, leaves, plants, garden trash, clippings from hedges and shrubs, branches, limbs, roots, and stumps.
- f. The term "unwholesome substance" shall be defined to mean any trash, motor vehicle body, inoperable vehicle, stone, junk, refuse, rubbish, debris, animal wastes, filth, building material unless (i) there is in force a valid building permit for construction on the property where the building materials are located and the building materials are to be used as part of that construction, or (ii) the building materials are for sale as part of a commercial business.

Sec. 15.23. - Essential services and buildings.

Essential services serving the City of Montrose shall be permitted as authorized and regulated by law and other ordinances of the city. Overhead or underground lines and necessary poles and towers to be erected and buildings, stations, and storage area or yards shall receive the review and approval, after a public hearing, of the city planning commission [now planning board—see Charter § 5-201]. Such review shall consider adjacent property and uses and consider the effects on property or use.

Sec. 15.24. - Illegal dwellings.

1. The use of any portion of the basement of a partially completed building, or any garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited.
2. Recreational vehicles, camping trailers, or tents may be used for living purposes when accessory to an existing single-family or two-family dwelling unit. Such use shall only be permitted for a seven-day period and for no more than one such period in any 30 consecutive days.

Sec. 15.25. - Lot aread.

Any lot existing and of record on the effective date of this ordinance may be used for any principal use permitted in the district which such lot is located, other than special land uses for which special lot area requirements are specified in this ordinance, whether or not such lot complies with the lot area and width requirements of this ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this ordinance are complied with and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this ordinance for required lot area for each dwelling unit.

Sec. 15.26. - Porches.

An open, enclosed, unenclosed or uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.

Sec. 15.27. - Access through yards.

For the purpose of this ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine inches above the grade upon which placed, shall, for the purpose of this ordinance, not be considered to be a structure, and shall be permitted in any required yard.

Sec. 15.28. - Timely completion of construction required.

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or structure authorized under the provisions of this ordinance, completion of such work shall be diligently pursued and completed in a timely manner. Unless otherwise specified as a condition of approval of a site plan, condominium plan, or special land use, any construction authorized under the provisions of this ordinance shall be completed within one year from the date of issuance of a building permit for such construction.

Sec. 15.29. - Withholding of approval.

The planning commission [now planning board—see Charter [§ 5-201](#)] or council may withhold granting of approval of any use, site plan, or other approval required by this ordinance pending approvals which may be required by any governmental agency.

Sec. 15.30. - Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.

Sec. 15.31. - Voting place.

The provisions of this ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

ARTICLE 16. - LANDSCAPING STANDARDS

Sec. 16.1. - Purpose.

This article is intended to reduce the negative impacts between zoning districts through requiring buffer landscape and screening, and to provide for landscaping within parking lots to assist in traffic circulation, provide shade, and enhance the environment. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the City of Montrose. The standards contained herein are considered minimums and not intended to interfere with landscape design flexibility and/or innovative landscape designs meeting the purpose of this article.

Sec. 16.2. - Scope of the application.

The requirements set forth in this section shall apply to all use districts except SF1 and SF2, which are developed or expanded following the effective date of this ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this article. Where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met.

In cases where the use of an existing building changes or an existing building is changed or otherwise altered or reoccupied, all of the standards set forth herein shall be met.

Sec. 16.3. - Landscaping design standards.

All portions of a lot or parcel area not covered by buildings, paving, or other impervious surfaces shall be landscaped with vegetative ground cover and other ornamental materials as required below, except where specific landscape elements such as greenbelts, berms, or screening are required.

1. All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks, and similarly site features may be incorporated with planning commission [now planning board—see Charter § 5-201] approval.
2. A mixture of evergreen and deciduous trees shall be planted at the rate of one tree per 3,000 square feet or portion of landscaped open space area.
3. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
4. Existing vegetation may be used to satisfy the requirements of this section provided they are marked "to remain" on the site plan and are protected during construction. Any tree marked "to remain" that is destroyed, must be replaced with trees that meet ordinance requirements.

(Ord. No. 308, § 4, 5-13-1997)

Sec. 16.4. - General landscape material standards.

[A.] *Minimum plant material standards.*

1. All plant material shall be hardy to the county, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen. The overall landscape plan shall not contain more than 33 percent of any one plant species.
2. All plant material shall be installed in such a manner so as not to alter drainage patterns on site or to

adjacent properties, or obstruct vision or safety of ingress or egress.

3. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.
4. Minimum plant sizes at time of installation (caliper measured six inches above grade level):

	Size	Min. spacing
Deciduous canopy tree	2½-inch caliper	25 feet
Deciduous ornamental tree	2-inch caliper	20 feet
Evergreen tree	6-foot height	20 feet
Deciduous shrub	2-foot height	6 feet
Upright evergreen shrub	2-foot height	8 feet
Spreading evergreen shrub	18—24 inch spread	6 feet

5. The majority of the installed plant material shall achieve its horizontal and vertical screening affect within four years of initial installation, or be replaced at the direction of the zoning administrator.
6. Areas which are intended to be landscaped shall be provided with a minimum topsoil depth of 1½ inches.
7. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

Common name	Botanical name
Box elder	Acer negundo
Ginkgo	Ginkgo biloba (female only)
Honey locust (with thorns)	Gleditsia triacanthos (with thorns)
Mulberry	Morus species
Poplars	Populus species
Black locust	Robinia species
Willows	Salix species
American elm	Ulmus americana
Siberian elm	Ulmus pumila
Slippery elm; Red elm	Ulmus rubra
Chinese elm	Ulmus parvifolia

[B.] *Landscaping a parking lot.* See section 13.8.

[C.] *Screening of dumpsters.* See section 15.10.

ARTICLE 17. - NONCONFORMING LOTS, STRUCTURES, AND USES OF LAND AND STRUCTURES

Footnotes:

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State Law reference— *Nonconforming uses and structures, MCL 125.3208.*

Sec. 17.1. - Purpose.

Upon adoption of this ordinance or subsequent amendments, there may exist lots, structures, and uses of land and structures which were lawful prior to the adoption of this ordinance, or amendments adopted later, but which are not in conformance with the provisions of this ordinance, or amendments adopted later. It is the intent of this ordinance to permit these nonconforming lots, structures, and uses to continue, but not to encourage their prolonged existence.

Sec. 17.2. - Nonconforming lots.

1. In districts zoned for single-family residential, nonconforming lots may be utilized, provided the width and depth is not less than 70 percent of that required by this ordinance. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall prevail even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Sec. 17.3. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity; however, an exception in SF1 and SF2 districts may allow the continuance of the existing nonconformity along the building face along the side plane. The continuance shall be a firewall as defined by the Uniform Building Code. This exception applies to side yards only and may not be granted for front or rear yard nonconformities.
2. Should such nonconforming or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement value at [the] time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. Should such structure be altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, [it] shall not be later reestablished or increased.

(Ord. No. 324, § 1, 3-24-1999)

Sec. 17.4. - Nonconforming uses of land.

Where, at the effective date of this ordinance or amendment thereto, lawful use of land exists that is made no longer permissible under the provisions of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following limitations:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

Sec. 17.5. - Nonconforming use of structures.

If lawful use involving individual structures with an assessed value of \$500.00 or more of structure and premises in combination exists at the effective date of adoption of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use.
4. When a nonconforming use of a structure or structure and premises in combination is [are] discontinued or abandoned for one year, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.
5. When a nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this section is defined as damage to an extent of more than 50 percent of the replacement value at time of destruction.

Sec. 17.6. - Repairs and maintenance.

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12

consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the estimated value of the building as determined by the most recent assessment of the market value of the structure for purposes of taxation, provided that the cubic content of the buildings as it existed at the time of enactment or amendment of this ordinance shall not be increased.

2. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.
3. Nothing in this ordinance shall be deemed to prevent buildings from coming into compliance with state or federal law.

ARTICLE 18. - ZONING BOARD OF APPEALS

Sec. 18.1. - Establishment.

There is hereby established a zoning board of appeals which shall perform its duties and exercise its powers as provided by Public Act No. 110 of 2006 as amended, the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(Ord. No. 427, § 7, 1-14-2016)

Sec. 18.2. - Membership.

1. The City of Montrose Zoning Board of Appeals shall consist of five members, as follows:
 - a. One member of the zoning board of appeals must be a representative of the City of Montrose Planning Board.
 - b. The members of the zoning board of appeals must be electors of the City of Montrose.
 - c. One regular or alternate member may be a member of the city council.
 - d. An elected officer of the city shall not serve as the chairman of the zoning board of appeals.
 - e. An employee or contractor of the city may not serve as a member of the zoning board of appeals.
 - f. The city council may appoint no more than two alternate members for the same term as regular members of the zoning board of appeals.
2. The members of the zoning board of appeals will be compensated at a rate to be determined, from time to time, by the city council. The chairperson of the zoning board of appeals is authorized to administer oaths and compel attendance of witnesses by Sections 601(8)—(10) and 602(1), (2) of Public Act 110.
3. Members of the ZBA shall be removable by the city council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(Ord. No. 389, 12-12-2006; Ord. No. 427, § 8, 1-14-2016)

Sec. 18-3. - Meetings and hearing procedures.

1. The board shall meet on a date and time determined by it, but no sooner than ten days nor later than 45 days

after the city receives an application upon which they need to act. The city will give due notice of such application to all residents and property owners within 300 feet of the premises in question regardless of municipal boundaries, and according to the requirements of section 19.5.3.

2. The notice shall be published in a newspaper of general circulation within the city, and where required, the notice will be delivered personally or by first class mail addressed to the respective owner(s) and tenant(s) at the address given in the last assessment roll at least 15 days before the date of the meeting at which the appeal will be acted upon. In such cases an affidavit of the mailing will be maintained. In all cases, the city shall send a notice of the hearing to the applicants no less than 15 days prior to the hearing. The city will post the notice of appeal in a prominent location on the premises in question. The content of the notices shall describe the nature of the request, indicate the property that is the subject of the request by street address, state when and where the request will be considered and indicate when and where written comments can be received per Section 103(3) of Public Act 110.
3. Upon receipt of a written request seeking an interpretation of the Zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper that circulates in the city and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request, the time, date, and place of the public hearing or the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question, and according to the requirements of section 19.5.3.
4. At the hearing, a party may appear in person or by agent and attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. A member of the zoning board of appeals who is also a member of the planning board or the city council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning board or the city council. The member may consider and vote on the other unrelated matters involving the same property.

(Ord. No. 389, 12-12-2006; Ord. No. 427, § 9, 1-14-2016)

Sec. 18.4. - Jurisdiction.

The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

In the case of a nonuse variance, where there are practical difficulties or, in the case of a use variance, where there is unnecessary hardship in the way of carrying out the strict letter of this ordinance, the zoning board of appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.

Nothing herein contained shall be construed to give or grant to the zoning board of appeals the authority to make changes in the zoning ordinance or the zoning map acting under the authority of appeal board. The power and authority to rezone is reserved to the city council in the manner provided by Public Act No. 110 of 2006, the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended.

(Ord. No. 427, § 10, 1-14-2016)

Sec. 18.5. - Powers and duties.

The zoning board of appeals shall have the following specified powers and duties:

1. *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the zoning administrator or any other administrative official in carrying out, or enforcing, any provisions of this ordinance.
2. *Interpretation.* To hear and decide in accordance with the provisions of this ordinance:
 - a. Appeals for the interpretation of the provisions of the ordinance.
 - b. Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the zoning map, when there is dissatisfaction with the decision on such subject.
3. *Variations.* The zoning board of appeals shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations, and other similar requirements as specified in the ordinance.
 The zoning board of appeals shall have the power to authorize, upon appeal, specific variances from the uses of property which are permitted as principle uses or as special land uses within zoning districts. The approval of a use variance requires an affirmative vote of 2/3 of the membership of the zoning board of appeals.
4. The zoning board of appeals shall/shall not hear appeals of special land use decisions and planned unit development decisions.

(Ord. No. 427, § 11, 1-14-2016)

Sec. 18.6. - Variance review procedures.

1. An application for the approval of a variance shall be made by an owner of an interest in the lot to the city clerk accompanied by the necessary fees and documents.
2. The application shall be accompanied by a site plan drawn to the scale of 1"-20' and placed on a standard sheet and containing the following information:
 - a. Dimensional elements for which a variance is requested.
 - b. Dimensional relationships of the subject lot to the structures on all adjacent lots.
3. The application shall be accompanied by an affidavit by the applicant explaining:
 - a. How the strict enforcement of the provisions of the city zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 - b. The conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.
 - c. The conditions and circumstances unique to the property which were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - d. Why the requested variance will not confer special privileges that are denied other properties similarly

situated and in the same zoning district.

- e. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.
4. The city clerk shall notify the applicant and all owners of an interest in lots, as recorded on the city tax roll, and within 300 feet of the subject lot upon which a variance is requested, and in accordance with the requirements of section 19.5.3., of the time and place of the zoning board of appeals meeting at which such application will be considered.
5. The board shall consider the application for variance at its next regular meeting, which provides sufficient time for notice, as required heretofore, or within not more than 35 days after receipt of the application by the city clerk, and hear and question any witness appearing before the board.
6. The board shall approve, with or without conditions, or disapprove the application and shall communicate its action in writing to the applicant, the city council, [and] the city planning commission [now planning board—see Charter § 5-201] within one week from the time of the meeting at which it considered the application.
 - a. The board shall not approve an application for a variance unless it has found positively that:
 - (1) The strict enforcement of the zoning ordinance would cause unnecessary hardship or practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 - (2) The conditions and circumstances are unique to the subject property and are not similarly applicable to other properties and in the same zoning district.
 - (3) The conditions and circumstances are unique to the subject property and were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - (4) The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
 - (5) The requested variance will not be contrary to the spirit and intent of the city zoning ordinance.

(Ord. No. 427, § 12, 1-14-2016)

Sec. 18.7. - Appeals procedures.

- A. These appeals procedures are instituted to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the city zoning ordinance, except the issuance of a variance which shall follow the procedures of section 18.6 of this ordinance.
- B. An appeal shall be filed with the officer from whom the appeal is taken and with the zoning board of appeals specifying the grounds for the appeal.
 1. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the appeal is taken.
 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the circuit court, on application on notice to the officer from whom the appeal is taken and on due cause shown.

3. Such appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the city.
4. The board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by attorney. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, as in its opinion ought to be made in the premises, and to that end shall have all the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.
5. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, the board shall have power in passing upon appeals to vary or modify any of its rules, regulations, or provisions so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done. The decision of such board shall be final and any party aggrieved by the decision shall have the right to appeal to the circuit court for the county in which the property is located. An appeal under this section shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, or 21 days after the zoning board of appeals approves the minutes of its decision.
6. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official.

(Ord. No. 427, § 13, 1-14-2016)

Sec. 18.8. - Appearance.

Any interested party may appear and be heard at the hearing in person or by an agent or attorney.

Sec. 18.9. - Limitation on powers of appeal.

The board shall not have the power to alter or change the zoning district classification of any property.

Sec. 18.10. - Vote on appeals.

Matters coming before the board shall be decided within a reasonable time. A concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant.

Sec. 18.11. - Decisions.

The decision of the board shall not become final until the expiration of five days from the date of entry of the order, unless the board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.

Sec. 18.12. - Forms of decisions.

The zoning board of appeals must state the grounds for their decision and the zoning board of appeals decision is final. However, any party aggrieved by the decision may appeal to the circuit court.

(Ord. No. 389, 12-12-2006; Ord. No. 427, § 14, 1-14-2016)

Sec. 18.13. - Making a record.

Decisions of the zoning board of appeals may be appealed to the appropriate court on the record and for that reason the board shall cause a record to be made of its proceedings.

Sec. 18.14. - Orders; validity, limitations.

No order of the board permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to a completion in accordance with the terms of such permit.

ARTICLE 19. - ENFORCEMENT AND ADMINISTRATION

Sec. 19.1. - Enforcement.

The city manager shall serve as the zoning administrator for the City of Montrose. The zoning administrator shall hereby administer and enforce this ordinance. He/she may be provided with the assistance of any other persons he/she deems necessary with the approval of the city council.

(Ord. No. 424, 10-9-2014)

Sec. 19.2. - Duties of the zoning administrator.

The zoning administrator shall have the following duties:

1. *Zoning map.* The zoning administrator shall maintain an accurate map of the zoning areas of the City of Montrose.
2. *Accept and record applications, issue and record permits.* The zoning administrator shall act as advisor to applicants for zoning requests and/or building permits. He shall review site plans for zoning compliance and verify that construction projects have the proper permits. When all applicable provisions of the zoning ordinance have been met regarding any application, the zoning administrator shall issue a zoning permit for the proposed use. When conditions are not met, the zoning administrator shall consult with the applicant to determine the proper course of action. The zoning administrator shall maintain a record of all applications and zoning permits including documentation for each.
3. *Issue written denial.* When an application for a zoning permit is denied, the zoning administrator shall provide the applicant with a written denial stating the reasons for the denial.
4. *Advisor.* The zoning administrator shall act as advisor to the planning commission [now planning board—see Charter [§ 5-201](#)] and the zoning board of appeals and submit all requests for changes to the zoning ordinance or variances to the proper board.
5. *Inspections.* The zoning administrator shall be empowered to make inspections of buildings or premises to carry out the enforcement of the zoning ordinance. He/she should routinely conduct general inspections of the city, checking for violations.
6. *Response to complaints.* The zoning administrator shall respond within five business days, whenever possible, to any complaint regarding an alleged violation of the terms or conditions of this ordinance or any permit issued pursuant to it. He/she shall provide a report at each regular planning commission [now

planning board—see Charter § 5-201] meeting summarizing the nature and disposition of such complaints.

7. *Violations.* If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of the illegal use of any lot or structures, removal of illegal structures, or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done or shall take any other action authorized by the ordinance to ensure compliance with or to prevent violation of its provisions.
8. *May not change ordinance.* Under no circumstances is the zoning administrator permitted to make changes in or to vary the terms of this ordinance.

Sec. 19.3. - Certificates of zoning compliance.

1. No building permit shall be issued for the construction, erection, alteration, expansion, moving, or repair of any building or other structure until a certificate of zoning compliance has been issued. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this ordinance.
2. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure or premises, or part thereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, as permitted under the terms of this ordinance, until a certificate of zoning compliance has been issued.
3. The zoning administrator shall maintain a record of all certificates of zoning compliance.

Sec. 19.4. - Performance guarantees.

1. As a condition of approval of a site plan, condominium plan, or special land use, the planning commission [now planning board—see Charter § 5-201] may require a financial guarantee of sufficient sum to assure [ensure] the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, driveways, parking areas, utilities and similar items.
2. Performance guarantees shall be processed in the following manner:
 - a. Prior to the issuance of [a] certificate of zoning compliance or occupancy permit, the applicant shall submit an itemized estimate of the cost of the required improvements, which shall then be reviewed by the zoning administrator. The amount of the performance guarantee shall be 100 percent of the cost of installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
 - b. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city.
 - c. Upon receipt of the required performance guarantee, the zoning administrator shall issue a certificate of zoning compliance for the subject development or activity, provided it is in compliance with all other applicable provisions of this ordinance.
 - d. The zoning administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been

satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

- e. When all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements and shall recommend to the council approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections. If partial approval is recommended, the cost of the improvement rejected shall be set forth.
- f. The council shall either approve, partially approve, or reject the improvements. The zoning administrator shall notify the obligor in writing the action of the council within 30 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvement not yet approved.
- g. A record of authorized performance guarantees shall be maintained by the zoning administrator.

Sec. 19.5. - Zoning ordinance amendments.

1. Amendments may be for either zoning district boundary changes or zoning text changes.
2. The city council may, with or without recommendations from the city planning commission [now planning board—see Charter § 5-201], amend, supplement or change the regulations or the district boundaries of this ordinance pursuant to the authority and according to the procedures set forth in Public Act No. 110 of 2006, the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended. Whenever a petitioner requests a zoning district change, he shall be the fee holder owner of the premises concerned or else have the fee holder owner also subscribe to his petition.
3. For any proposed amendments (text or boundary), the planning commission [now planning board—see Charter § 5-201] shall hold a public hearing as provided in Public Act No. 110 of 2006, the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended. After the public hearing has been closed, the planning commission [now planning board—see Charter § 5-201] shall submit a report and recommendations to the city council on the proposed amendment.
 - a. In the case of a text amendment, the city clerk shall post notice of public hearing in a newspaper of general circulation within the city not less than 15 days before the next regular meeting of the city planning board. In the case of rezonings, the city clerk shall further notify the applicant and all residents and owners of real property within 300 feet, regardless of municipal boundaries, of any parcel upon which a petition for amendment of zoning has been filed, of the time and place of all public hearing at which such petition for rezoning will be considered. Provided further, such notice of public hearings shall be given by first class United States mail, deposited at a United States Post Office at least 15 days prior to the date of the hearing. The notice shall include a description of the nature of the request, indicate the property that is the subject of the request by street address, state when and where the request will be considered and indicate when and where written comments can be received. The notice shall also include the places and times at which the tentative text and any maps of the zoning ordinance may be examined.
 - b. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be

given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.

- c. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- d. If 11 or more adjacent properties are proposed for rezoning, it is not required that the notice be provided to the recipients listed in subsection 19.5.3.a., and further, the notice need not contain the individual addresses of properties required to be listed under subsection 19.5.3.c.
- e. The city clerk shall give similar notice of the time and place of such hearing to each public utility company owning or operating any public utility, railroad within the district or zones affected or telecommunication providers within the district or zones that registered its name and address to receive such notice.
- f. Prior to making a decision at the next regularly scheduled city council meeting, the council must provide a hearing to any person requesting it. The city council shall consider the proposed amendment and may take the following actions on a zoning amendment:
 - (1) Approve the proposed amendment by a majority vote.
 - (2) Deny the request by a majority vote.
 - (3) Hold a public hearing on the matter before reaching a decision.
 - (4) Consider changes to the proposed amendment. The city council may refer any proposed amendments back to the planning board for consideration and comment within a time specified by the city council.

(Ord. No. 389, 12-12-2006; Ord. No. 427, § 15, 1-14-2016)

Sec. 19.6. - Conditional rezoning.

1. *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Zoning Enabling Act, Public Act 110 of 2006 (MCL 125.3405), as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
2. *Application and offer of conditions.*
 - a. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - b. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 - c. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - d. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

- e. Any use or development proposed as part of an offer of conditions that would require a special land use permit terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 - f. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this ordinance.
 - g. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 - h. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning board's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning board for a new public hearing with appropriate notice and a new recommendation.
3. *Planning board review.* The planning board, after public hearing and consideration of the standards for approval set forth in section 19.6.5., may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
4. *City council review.* After receipt of the planning board's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in section 19.6.5. Should the city council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council shall, in accordance with the Michigan Zoning Enabling Act, (MCL 125.3401), refer such amendments to the planning board for a report thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
5. *Factors.* In reviewing an application for the rezoning or land where there is an offer of conditions, factors that should be considered by the planning board and the city council shall include the following:
- a. Whether the proposed rezoning is consistent with the goals, policies and Future Land Use Map of the City of Montrose Master Plan;
 - b. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values;
 - c. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning. Consideration of impact on drains and roads is specifically required; and
 - d. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
6. *Approval.*

- a. If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an integral part of the ordinance adopted by the city council to accomplish the requested rezoning.
- b. The statement of conditions shall:
 - (1) Be in a form recordable with the register of deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the city council.
 - (2) Contain a legal description of the land to which it pertains.
 - (3) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.
 - (4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - (5) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof shall be recorded with the Register of Deeds of Genesee County by the owner with a copy of the recorded document provided to the city within 45 days of its recording.
 - (6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
- c. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The city clerk shall maintain a listing of all lands rezoned with a statement of conditions.
- d. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of Genesee County. The owner shall provide a copy of the recorded document to the city within 45 days of the date of its recording. The city council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.
- e. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

7. *Compliance with conditions.*

- a. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this zoning ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- b. No permit or approval shall be granted under this ordinance for any use or development that is contrary to

an applicable statement of conditions.

8. *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if: (1) it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and (2) the city council finds that there has not been a change in circumstances that would render the current zoning with its statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and (3) the written request shall be made to the city council requesting the extension within six months of the end of the 36-month period.
9. *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under section 19.6.8. above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the city council requesting that the planning board proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
10. *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to section 19.6.9. above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the register of deeds of the county in which the land is located a notice that the statement of conditions is no longer in effect.
11. *Amendment of conditions.*
 - a. During the time period for commencement of an approved development or use specified pursuant to section 19.6.8. above, or during any extension thereof granted by the city council, the council shall not add to or alter the conditions in the statement of conditions.
 - b. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.
12. *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act.
13. *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

(Ord. No. 427, § 16, 1-14-2016)

Editor's note— With the edition of new provisions set out as § 19.6 by Ord. No. 427, all subsequent existing sections 19.6—19.13 have been renumbered as §§ 19.7—19.14 as herein set out below.

Sec. 19.7. - Planning commission [now planning board].

The city planning commission [now planning board—see Charter § 5-201] is hereby designated as the commission specified in Public Act No. 110 of 2006, the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended, and shall perform the zoning duties of said commission as provided in the statute in connection with any amendment of this ordinance.

(Ord. No. 427, § 17, 1-14-2016)

Sec. 19.8. - Planning commission [now planning board] approval.

In cases where the planning commission [now planning board—see Charter § 5-201] is empowered to approve certain use of premises under the provisions of this ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said commission for the proper consideration of the matter.

The planning commission [now planning board—see Charter § 5-201] shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected, of the time and place of any hearing which may be held as required under its rules of procedure.

(Ord. No. 427, § 18, 1-14-2016)

Sec. 19.9. - Interpretation.

In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this ordinance to repeal, abrogate, annul, or in anyway to impair or interfere with any existing provision of law or ordinance other than the above described zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this ordinance shall control. An American Standard Dictionary shall be used for definitions when not found in this ordinance.

(Ord. No. 326, § 1, 11-10-1999; Ord. No. 427, § 18, 1-14-2016)

Sec. 19.10. - Vested right.

Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

(Ord. No. 427, § 18, 1-14-2016)

Sec. 19.11. - Enforcement, penalties and other remedies.

1. *Civil infractions.* A person, firm, or corporation who violates any provisions of this ordinance is responsible for a municipal civil infraction.
 - a. A person, firm or corporation violating any provisions of this ordinance for the first time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$25.00 plus costs.

- b. A person, firm or corporation violating any provisions of this ordinance for the second time is responsible for a civil infraction and is subject to payment of a civil fine of not less than \$50.00 plus costs.
 - c. A person, firm or corporation violating any provisions of this ordinance for the third time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$75.00 plus costs.
 - d. A person, firm or corporation violating any provisions of this ordinance for the fourth or subsequent time is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days or both. Such fine and imprisonment [shall be] in the discretion of the court.
2. *Fines; imprisonment.* The owner of any building, structure or premises or part thereof where any condition in violation of this ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and, upon conviction thereof, shall be liable to the fines and imprisonment herein provided.
 3. *Public nuisance per se.* Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and [is] in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.
 4. *Each day a separate offense.* A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.
 5. *Right and remedies are cumulative.* The rights and remedies provided in this ordinance are cumulative and are in addition to any other remedy provided by law.

(Ord. No. 427, § 18, 1-14-2016)

Sec. 19.12. - Validity and severability clause.

This ordinance and the various parts, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this ordinance to be invalid, such ruling shall not affect any other provisions of this ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this ordinance to a particular lot, use, building, or structure, such ruling shall not affect the application of said provision to any other lot, use, building, or structure not specifically included in said ruling.

(Ord. No. 427, § 18, 1-14-2016)

Sec. 19.13. - Savings.

A prosecution which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

(Ord. No. 427, § 18, 1-14-2016)

Sec. 19.14. - Effective date.

This ordinance shall become effective the 18th day of June 1995 following publication thereof in the newspaper circulating within said city.

(Ord. No. 427, § 18, 1-14-2016)

[ARTICLE 20.] - ZONING MAP AMENDMENTS

1. *Rezoning from SF2 (single-family residential) to IND (industrial district).* It is hereby determined that the property with the following legal description shall be rezoned from SF2 (single-family residential) to IND (industrial district):
E 231 ft of S 643.50 ft of N 940.50 ft of NW ¼ of NE ¼ Sec. 20 T9N R5E 3.62A.

(Ord. No. 283, 5-14-1996)

2. *Rezoning from SF2 (single-family residential) to GBD (general business district).* It is hereby determined that the property with the following legal description shall be rezoned from SF2 (single-family residential) to GBD (general business district):

The W ½ of the E ½ of the SW ¼ except the South 360' and also except the North 320' of Sec. 17 T9N-R5E, City of Montrose, Genesee County, Michigan.

(Ord. No. 298, 6-11-1996)

3. *Rezoning from SF2 (single-family residential) to GBD (general business district).* It is hereby determined that the[sic] 700 feet north of M-57/State Street of the property with the following legal description shall be rezoned from SF2 (single-family residential) to GBD (general business district):

The W ½ of the W ½ of the W ½ of the SE ¼ except S 330' of E. 155' of Sec. 17 T9N-R5E, City of Montrose, Genesee County, Michigan.

(Ord. No. 302, 8-20-1996)

4. *Rezoning from SF2 (single-family residential) to GBD (general business district).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended by Ordinance No. 298, is hereby amended to change the classification of the following described property from SF2 (single-family residential) to GBD (general business district):

The W ½ of the E ½ of the SW ¼ of the SE ¼ except the South 360' and also except the North 320' of section 17 T9N-R5E, City of Montrose, Genesee County, Michigan.

And the signs and symbols on the zoning map shall be changed accordingly.

(Ord. No. 318, § 1, 4-13-1998)

5. *Rezoning from GBD (general business district) to MFR (multiple-family residential).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from GBD (general business district) to MFR (multiple-family residential):

A parcel of land beginning 496.84 feet West of the South ¼ corner of section 16, Township 9 North, Range 5 East, thence North 182 feet; thence West 80 feet; thence South 182 feet; thence East 80 feet to the place of the beginning, section 16, Township 9 North, Range 5 East.

And the signs and symbols on the zoning map shall be changed accordingly.

(Ord. No. 319, § 1, 6-9-1998)

6. *Rezoning from SF1 (single-family residential) to IND (industrial district).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from SF1 (single-family residential) to IND (industrial district):

A parcel of land being part of the South half of the Southeast Quarter of section 17, Township 9 North, Range 5 East, Michigan Meridian, Lots Nos. 62, 63, 64, 65, and 66 of Ruggles Subdivision, according to the recorded plat thereof as recorded in Plat Book 24, Page 7, Genesee County Records.

And the signs and symbols on the zoning map shall be changed accordingly.

(Ord. No. 321, § 1, 10-13-1998)

7. *Rezoning from SF1 (single-family residential) to GBD (general business district).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from SF1 (single-family residential) to GBD (general business district):

Part of the Southwest ¼ of section 16 T9N-R53, Genessee County, Michigan, being more particularly described as follows: beginning at a point on the South line of Section 16, which is S89°18'30"W, 1,022.83 feet (recorded as 1,023.01 feet); thence S89°18'30"W, 175.61 feet, continuing along said South line; thence N00°10'00"W, 222.75 feet; thence N89°18'30"E, 133.83 feet; thence N00°34'42"W, 82.54 feet to a point on the South line of Hickory Street as monumented; thence N87°24'18"E, 42.41 feet, along said South line of Hickory Street; thence S00°10'00"E, 306.70 feet to the point of beginning, containing 0.978 acres (42,601 square feet) of land, more or less, and subject to the use of the South 33.00 feet thence AS M-57 (State Street), so called.

(6016300062/6016300027.)

And the signs and symbols on the zoning map shall be changes accordingly.

(Ord. No. 323, § 1, 1-13-1999)

8. *Rezoning from SF1 (single-family residential) to MFR (multiple-family residential).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described properties from SF1 (single-family residential) to MFR (multiple-family residential):

A parcel of land beg 26 rds N of SE cor of SEC TH N 4 RDS TH W 9 RDS TH S 4 RDS TH E 9 RDS TO PLACE of BEG SEC 17 T9N R5E. (6017400024).

A parcel of land BEG 22 RDS N of SE COR of SEC 17 TH W 177 FT TH N 4 RDS TH E 177 FT TH S 4 RDS TO PLACE of BEG SEC 17 T9N R5E. (6017400026).

And the sign and symbols on the zoning map shall be changed accordingly.

(Ord. No. 325, § 1, 7-13-1999)

9. *Rezoning from SF1 (single-family residential) to MFR (multiple-family residential).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from SF1 (single-family residential) to MFR (multiple-family residential):

Parcel 1: Lot 9 of Stevens Jennings Addition No. 1, according to the plat thereof as recorded in Liber 25 of plats, page 16, Genesee County Records, and part of the Southwest $\frac{1}{4}$ of section 16, township 9 North, range 5 East, described AS beginning the Northeast corner of Stevens Jennings Addition No. 1; thence South 72.35 feet; thence East 113.61 feet; thence North 0 degrees P5 minutes 42 seconds West, 73.92 feet; thence South 89 degrees 11 minutes West 113.50 feet to the place of beginning, section 16, township 9 North, range 5 East. (TAX ID# 6016554009)

Parcel 2: A parcel of land in section 16, township 9 North, range 5 East, described AS beginning North 0 degrees 05 minutes 43 seconds West 528 feet from the South $\frac{1}{4}$ corner of said section; thence North 0 degrees 05 minutes 43 seconds West 785.66 feet; thence South 89 degrees 11 minutes West 189.50 feet; thence South 0 degrees 05 minutes 43 seconds East 785.24 feet; thence North 89 degrees 18 minutes 30 seconds East 189.50 feet to the place of the beginning. (TAX ID# 6016300002)

And the signs and symbols on the zoning map shall be changed accordingly.

(Ord. No. 335, § 1, 9-12-2000)

10. *Rezoning from MFR (multiple-family residential) to SF1 (single-family residential).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from MFR (multiple-family residential) to SF1 (single-family residential):

Parcel 1: Lot 9 of Stevens Jennings Addition No. 1, according to the plat thereof as recorded in Liber 25 of Plats, page 16, Genesee County Records, and part of the Southwest $\frac{1}{4}$ of section 16, township 9 North, range 5 East, described AS beginning the Northeast corner of Stevens Jennings Addition No. 1; thence South 72.35 feet; thence East 113.61 feet; thence North 0 degrees P5 minutes 42 seconds West, 73.92 feet; thence South 89 degrees 11 minutes West 113.50 feet to the place of beginning, section 16, township 9 North, range 5 East. (TAX ID# 6016554009)

Parcel 2: A parcel of land in section 16, township 9 North, range 5 East, described AS beginning North 0 degrees 05 minutes 43 seconds West 528 feet from the South $\frac{1}{4}$ corner of said section; thence North 0 degrees 05 minutes 43 seconds West 785.66 feet; thence South 89 degrees 11 minutes West 189.50 feet; thence South 0 degrees 05 minutes 43 seconds East 785.24 feet; thence North 89 degrees 18 minutes 30 seconds East 189.50 feet to the place of the beginning. (TAX ID# 6016300002)

And the signs and symbols on the zoning map shall be changed accordingly.

(Ord. No. 342, § 1, 6-21-2001)

11. *Rezoning from SF2 (single-family residential) to MFR (multiple-family residential).* The City of Montrose Zoning Ordinance, being Ordinance No. 255, as amended, is hereby amended to change the classification of the following described property from SF2 (single-family residential) to MFR (multiple-family residential):

The Northerly 1,473 feet of Parcel #6017400041 described as the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ Except the South 330 feet of section 17 T9N R5E; and

The Northerly 33 feet of parcel #6017400043 described as the North 528 feet of the South 1,228 feet of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of section 17 T9N R5E; and

The entire Parcel #6017400044 described as the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ except for the South 1,228 feet of section 17 T9N R5E; and

The Northerly 1,473 feet of Parcel #6017400046 described as the North eight acres of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of section 17 T9N R5E 8A.