

MONTROSE ZONING REGULATIONS

(Updated Through Ordinance 2025-004)

*Prepared by the South Eastern Council of Governments at the direction of the
Planning Commission and City Council of the City of Montrose, South Dakota*

ORDINANCE NO. 288-05

ZONING REGULATIONS FOR THE CITY OF MONTROSE

AN ORDINANCE ADOPTING THE ZONING REGULATIONS FOR THE CITY OF MONTROSE, SOUTH DAKOTA.

Be it ordained by the City of Montrose, South Dakota: This ordinance adopts the zoning regulations, as set forth in the document titled Zoning Regulations; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.

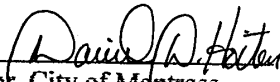
First Reading: Oct 11, 2005

Second Reading: Nov 8, 2005

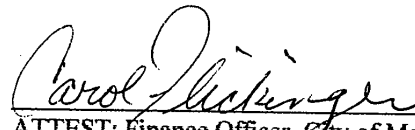
1st Publication Date: Nov 16, 2005

2nd Publication Date: Nov 23, 2005

Effective Date: Dec 13, 2005 (20 days after second publication date)



Mayor, City of Montrose



ATTEST: Finance Officer, City of Montrose

CITY SEAL:

NOTICE OF ADOPTION

ORDINANCE NO. 288-05 ESTABLISHING ZONING REGULATIONS FOR THE CITY OF MONTROSE, SOUTH DAKOTA, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

Notice is hereby given that Ordinance No 288-05, adopting the City of Montrose South Dakota, Zoning Regulations, with such regulations being set forth in the document titled Montrose Zoning Regulations; providing for restrictions, district boundaries and a zoning map, and providing for repeal of all ordinances or parts thereof in conflict therewith, was duly adopted by the City Council on November 8, 2005, and will become effective on 12-13 of 2005, unless the referendum shall be invoked. A copy of the zoning regulations are available for public review during regular business hours at Montrose City Hall.

Carol Flickinger, Finance Officer

Publish: 11-16-05 & 11-23-05

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1

GENERAL PROVISIONS

1.01 Title and Application

These regulations shall be referred to as the Zoning Ordinance of the City of Montrose.

1.02 Jurisdiction

The provisions of this ordinance shall apply to all territory within the boundaries of the City of Montrose, South Dakota, as established on the Official Zoning Map of the City of Montrose.

1.03 Purpose

These regulations have been based upon the Montrose Comprehensive Plan adopted and in conformance with Chapter 11-4 and 11-6 of South Dakota Codified Laws. These regulations are designed to carry out the goals, objectives, and policies of the Comprehensive Plan.

The Zoning Ordinance is intended:

- * To lessen congestion in the streets;
- * To secure safety from fire, panic and other dangers;
- * To promote health and the general welfare;
- * To provide adequate light and air; to prevent overcrowding of land;
- * To avoid undue concentrations of population; and
- * To facilitate the adequate provision of transportation, water, sewers, school, parks and other public necessities.

1.04 Provision of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

1.05 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions established in the granting of Variances or Conditional Uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction be subject to the penalties established by South Dakota Law. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure or premises, any architect, builder, contractor, agent or other person who commits, maintains, assists in or participates in such violation may be found guilty of a separate offense and suffer the penalties provided.

1.06 Separability Clause

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

1.07 Repeal of Conflicting Ordinances

All prior ordinances or parts of prior ordinances in conflict with this ordinance are hereby declared repealed.

1.08 Effective Date

These regulations shall be in full force and effect from and after their passage, approval, publication and effective date of the Zoning Ordinance of the City of Montrose, as provided for by South Dakota Law.

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DISTRICTS AND BOUNDARIES

2.01 Districts Designated

The City is hereby divided into the following districts:

- A-1 Agricultural District
- R-1 Residential District
- B-1 Business District
- I-1 Industrial District
- CR Conservation and Recreation District

2.02 Adoption of Official Zoning Map

The Official Zoning Map for the City of Montrose, on record with the Zoning Administrator and the Finance Officer, is hereby adopted by reference and declared to be a part of this ordinance.

2.03 Changes to Official Zoning Map

Changes to or replacement of the Official Zoning Map shall require amendment of these regulations by ordinance, as provided for in 14.01 of these regulations.

2.04 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following platted lot lines or City limits shall be interpreted to follow such platted lot lines or City limits.
- B. Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks;
- C. Boundaries indicated as approximately following the center lines of streets or other rights-of-way, or streams or other bodies of water, shall be interpreted to follow such center lines;
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are a variance with those shown on the Official Zoning Map, the Board of Adjustment, as established in Chapter 13, shall interpret the district boundaries.

- E. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a Conditional Use Permit, the extension of the regulations for either portion of the lot into the remaining portion of the lot.

2.05 Annexations

In all territories which may hereafter be annexed to the City, the zoning districts as they exist in McCook County shall be continued until otherwise changed by City ordinance.

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A-1: AGRICULTURAL DISTRICT

The purpose of this district is to preserve lands best suited for agricultural use from encroachment by incompatible uses and to preserve in agricultural use land suited for eventual development to other uses, pending proper timing for practical and economical provision of utilities, streets and other municipal facilities.

3.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	8.02
Farm Dwellings, Single-Family	8.02, 8.04, 8.10, 8.11 and not within identified floodplain area
One Additional Single-Family Dwelling or Manufactured Home	Said dwelling shall be located within the farmstead perimeter. All farm dwelling, single-family requirements apply. Not within an identified floodplain area.
Public Park Areas	8.02, 8.05
Greenhouse / Nursery	8.02, 8.05
Electrical Substation	8.02, 8.11 An opaque screen, 6 feet in height located at all setback lines.
Public Utility Facility	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 12 square feet in area.
Fences	8.08
Roadside Stands	8.02, 8.05
Kennels	8.02, 8.05
Veterinarian	8.02, 8.04, 8.05
Temporary Signs	8.02, 8.07
Accessory Use and Structure (i.e. garage, shed)	8.03, 9.01 and definition

* Measured from the closest point of the structure to the property line

3.02 Conditional Uses

Conditional Uses	Applicable Standards
Agribusiness	8.02, 8.04, 8.05, 8.11, & 13.05
Airport	8.02, 8.04, 8.05, 8.08, 8.11, & 13.05
Cemeteries	8.02, 8.05, & 13.05 and not within an identified floodplain area. One freestanding sign not to exceed 12 square feet in area. At least 2 acres in size and adequate road system within Cemetery.
Grain Terminal	8.02, 8.04, 8.05, & 13.05

Conditional Uses	Applicable Standards
Home Occupations	8.02, 8.04, 8.05, 8.12, & 13.05
Manufactured Home	8.02, 8.04, 8.05, 8.11, 8.13, & 13.05
Mining	8.02, 8.04, 8.05, 8.08, 13.05
Municipality Owned Waste Water Treatment Facility	8.02, 8.04, 8.05, 8.11, & 13.05
Quarry	8.02, 8.04, 8.05, 8.08, & 13.05
Solid Waste Transfer Facility	8.02, 8.04, 8.05, & 13.05
Telecommunications Tower	8.02, 8.09, & 13.05
Wireless Communication Facility	8.02, 8.09, 13.05 & not within an identified floodplain area

* Measured From the closest point of the structure to the property line

3.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). Where a side yard or rear yard is required, half of the required yard must be maintained as a landscaped area.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	75 feet	30 feet	50 feet	35 feet

Exceptions

#1. See Adjustment to Yard Regulations (Chapter 9) for specific exceptions.

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R-1: RESIDENTIAL DISTRICT

The purpose of this district is to provide for residential areas in the City now developed primarily with single-family dwellings and where similar development is likely to occur.

4.01 Permitted Uses

Permitted Use	Applicable Standards
Single-Family Dwellings	8.02, 8.04, 8.05, 8.10, 8.11
Churches	8.02, 8.04, 8.05, 8.11
Day Care	8.02, 8.04, 8.05, 8.10, 8.11 A safe pickup and drop off area must be provided for the children.
Group Day Care	8.02, 8.04, 8.05, 8.10, 8.11 A safe pickup and drop off area must be provided for the children.
Schools	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 50 square feet in area. All parking lots being 8 feet from all residential properties.
Public Park Areas	8.02, 8.04, 8.05
Libraries	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 12 square feet in area. All parking lots being 8 feet from all residential properties.
Neighborhood Utilities	8.02
Fences	8.08
Electrical Substation	8.02, 8.11 An opaque screen, 6 feet in height located at all setback lines.
Temporary Signs	8.02, 8.07
Accessory Structure (i.e. garage, shed)	8.02, 9.01 (see definition)

4.02 Conditional uses

Conditional Use	Applicable Standards
Assisted Living Facility	8.02, 8.04, 8.05, 8.11, & 13.05 One freestanding sign not to exceed 12 square feet in area.
Bed and Breakfast	8.02, 8.04, 8.05, 8.10, 8.11, 8.12, & 13.05
Boarding and Lodging House	8.02, 8.04, 8.05, 8.11, & 13.05
Golf Course	8.02, 8.04, 8.05, & 13.05 One freestanding sign not to exceed 12 square feet in area.
Manufactured Home Parks	8.02, 8.04, 8.05, 8.11, 8.13, & 13.05

Conditional Use	Applicable Standards
Multiple-Family Dwellings	8.02, 8.04, 8.05, 8.10, 8.11, & 13.05
Nursing Home	8.02, 8.04, 8.05, 8.11, & 13.05 One freestanding sign not to exceed 12 square feet in area.
Public Service Facility	8.02, 8.04, 8.05, & 13.05
Home Occupations	8.02, 8.04, 8.05, 8.10, 8.11, 8.12, & 13.05
Group Home (see definition)	8.02, 8.04, 8.05, 8.10, 8.11, & 13.05 Structure must be a single housekeeping unit. Applicant must provide copy of state agency license.
Wireless Communication Facility on Existing Support Structure	8.02, 8.09 & 13.05
Stand-alone garage	8.02, 8.04, 8.05, 8.08, 8.11, & 13.05 The building shall include both a service door and an overhead door. Exterior walls shall be constructed of either: (1) materials commonly used on the exterior walls of residential structures such as brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco, or residential lap siding made of vinyl, steel, or aluminum. No siding shall have visible fasteners. For purposes of this section, screws shall not be considered visible fasteners; or (2) wainscoting of two colors required for metal siding. The building may be either post-frame or stick-built construction. The pitch of the building's roof shall not be less than one (1) foot for rise for each four (4) feet of horizontal run. The roof must overhang the exterior walls of the building no less than two (2) feet. Gutters of sufficient design to control water runoff shall be installed. Roofing shall be of a type and material similar to those utilized on residential structures. All stand-alone garages must be structurally anchored to a permanent foundation that meets local, state, and/or international building codes. Building shall not be used for dwelling purposes. Stand-alone garages must be setback ten (10) feet or more from the principal building. Must not occupy more than 30% of the rear yard. Front yard Setback = 25 ft.

	Rear Yard Setback = 7 ft. Side yard Setback = 7 ft. Alleyway Setback = 20 ft.
Shouse	8.02, 8.04, 8.05, 8.08, 8.11, & 13.05 The workshop and/or storage space portion of the building shall include both a service door and an overhead door. Exterior walls shall be constructed of either: (1) materials commonly used on the exterior walls of residential structures such as brick, concrete composite board, artificial or natural stone, exterior grade natural or composite wood, stucco, or residential lap siding made of vinyl, steel, or aluminum. No siding shall have visible fasteners. For purposes of this section, screws shall not be considered visible fasteners; or (2) wainscoting of two colors required for metal siding. The building may be either post-frame or stick-built construction. The pitch of the building's roof shall not be less than one (1) foot for rise for each four (4) feet of horizontal run. The roof must overhang the exterior walls of the building no less than two (2) feet. Gutters of sufficient design to control water runoff shall be installed. Building height: Minimum height of eight (8) feet; Maximum height of twelve (12) feet. Building height may be increased or decreased during the conditional use process. Shouses must be structurally anchored to a permanent foundation that meets local, state, and/or international building codes. Lot Width = not less than 60 feet Cul-se-sac Lot Width = not less than 45 feet Front yard Setback = 25 ft Rear yard Setback = 25 ft Side yard Setback = 7 ft Alleyway Setback = 20 ft

(Amended: Ord. No. 2020-006, Effective 09/04/20; Ord. No. 005-2021, Effective 09/16/21; Ord. No. 2024-004, Effective 05/01/24)

4.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). Where a side yard or rear yard is required, half the required yard must be maintained as a landscaped area.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Single Family	7,000 sq. ft	60 feet see #1 & #2	25 feet see #3	7 feet	25 feet	35 feet
Multiple Family	3,000 sq. ft per unit	60 feet see #1 & #2	25 feet see #3	7 feet	25 feet	35 feet
Stand-alone garage	NA See #4	NA See #2	25 feet See #3	7 feet	25 feet	12 feet See #6
Shouse	NA See #4	NA See #2	25 feet See #3	7 feet	25 feet	12 feet See #7
All other uses	See #4	60 feet	25 feet see #3	7 feet	25 feet	35 feet

Exceptions

- #1. A residence may be constructed on a lot-of-record which has a lot width of less than 60 feet.
- #2. A lot located on a cul-de-sac bulb shall have a lot width of not less than 45 feet.
- #3. There shall be a required front yard on each street side of lots.
- #4. Double the area of the combined footprint of all proposed buildings.
- #5. See also Adjustment to Yard Regulations (Chapter 9) for other specific exceptions.
- #6. The height of a stand-alone garage shall not exceed twelve (12) feet unless approved by the terms of the conditional use permit. The minimum height of the building shall be eight (8) feet.
- #7. The height of the workshop and/or storage space portion of the building shall not exceed twelve (12) feet unless approved by the terms of the conditional use permit. The minimum height of the workshop and/or storage space portion of the building shall be eight (8) feet.

(Amended: Ord. No. 005-2021, Effective 09/16/21)

5

B-1: BUSINESS DISTRICT

The purpose of this district is to provide a commercial area for those establishments serving the general shopping needs of the trade area, with specific attention to the carrying capacity of roads and streets, and to encourage provision of adequate off-street parking and loading space. It is not the intent of this district to encourage the extension or enlargement of strip commercial areas.

5.01 Permitted Uses

Permitted Use	Applicable Standards
Arcade	8.02, 8.04, 8.05, 8.11 Subject to not being located within 150 feet of an adult use.
Retail Trade or Service	8.02, 8.04, 8.05, 8.11
Personal Service	8.02, 8.04, 8.05, 8.11
Automobile Parking Lots	8.02, 8.04, 8.05, 8.11
Office	8.02, 8.04, 8.05, 8.11
Car Wash	8.02, 8.04, 8.05, 8.11 Water from car wash contained on the site.
Churches	8.02, 8.04, 8.05, 8.11
Commercial Recreation Facility	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 20 square feet in area.
Day Care Center	8.02, 8.04, 8.05, 8.11 Adequate and safe playground area with a fence 4 feet high
Motor Vehicle Service Station / Gas Dispensing Station	8.02, 8.04, 8.05, 8.11
Restaurants	8.02, 8.04, 8.05, 8.11
Funeral Home / Mortuary	8.02, 8.04, 8.05, 8.11
Greenhouse / Nursery	8.02, 8.04, 8.05, 8.11
Hospital / Clinic	8.02, 8.04, 8.05, 8.11
Hotel / Motel	8.02, 8.04, 8.05, 8.11
Motor Vehicle Sales, Display, and Service	8.02, 8.04, 8.05, 8.11
Electrical Substation	8.02, 8.11 An opaque screen, 6 feet in height, located at all setback lines
Off-premise Signs	8.02, 8.06
Parks	8.02, 8.04, 8.05, 8.11
Private Club	8.02, 8.04, 8.05, 8.11
Public Service Facility	8.02, 8.04, 8.05, 8.11
Public Utility Facility	8.02, 8.04, 8.05, 8.11

Permitted Use	Applicable Standards
Recreation Areas and Facilities	8.02, 8.04, 8.05, 8.11
Fence	8.02, 8.08
Temporary Signs	8.02, 8.07
Accessory Use (i.e. garage, shed)	8.03, 9.01 (see definition)

* Measured from the closest point of the outside walls of both structures.

5.02 Conditional Uses

Conditional Use	Applicable Standards
Adult Use	8.01, 8.02, 8.04, 8.05, 8.11, & 13.05
Agribusiness	8.02, 8.04, 8.05, 8.11, & 13.05
Assisted Living Facility	8.02, 8.04, 8.05, 8.11, & 13.05 One freestanding sign not to exceed 20 square feet in area.
Broadcast Tower	8.02, 8.11, & 13.05 Subject to being located at least 300 feet from a residential district.*
Bus Passenger Terminal	8.02, 8.04, 8.05, 8.11, & 13.05
Bus Terminal	8.02, 8.04, 8.05, 8.11, & 13.05
Campground	8.02, 8.04, 8.05, 8.11, & 13.05 One free standing sign not to exceed 20 square feet in area.
Cannabis Dispensaries	16.01, 16.02, 16.06, 16.07
Drive-in Theater	8.02, 8.04, 8.05, 8.11, & 13.05
Farm / Feed Store	8.02, 8.04, 8.05, 8.11, & 13.05 Subject to only accessory storage of fertilizer or farm chemicals on the site.
Frozen Food Locker	8.02, 8.04, 8.05, 8.11, & 13.05
Kennel	8.02, 8.04, 8.05, 8.08, 8.11, & 13.05
Lumberyard	8.02, 8.04, 8.05, 8.11, & 13.05 Subject to the screening of all outdoor storage from view.
Motor Vehicle Repair Shop	8.02, 8.04, 8.05, 8.11, & 13.05 Subject to an adequate number of parking spots to allow temporary storage of the cars only while being repaired.
Nursing Home	8.02, 8.04, 8.05, 8.11, & 13.05 One freestanding sign not to exceed 20 square feet in area.
Off-sale Alcoholic Beverage Establishment	8.02, 8.04, 8.05, 8.11, & 13.05 Located at least 300 feet from a school.*
On-sale Alcoholic Beverage Establishment	8.01, 8.02, 8.04, 8.05, 8.11, & 13.05 Located at least 300 feet from a school.*
Printing Plant	8.02, 8.04, 8.05, 8.11, & 13.05
Single-Family Dwellings	8.02, 8.04, 8.05, 13.05 & subject to dwelling being located above the first floor
Storage Facility	8.02, 8.05, 8.11, & 13.05 One freestanding sign not to exceed 12 square feet in area

Telecommunications Tower	8.02, 8.05, 8.09, 8.11, & 13.05
Conditional Use	Applicable Standards
Veterinarian	8.02, 8.04, 8.05, 8.11, & 13.05
Wireless Communication Facility	8.02, 8.09, & 13.05

* Measured from the closest point of the outside walls of both structures.

(Amended: Ord. No. 007-2021, Effective 12/23/21)

5.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	2,400 sq. ft.	0 to 50 feet	10 feet see #3	5 feet see #1, #3	5 feet see #2	45 feet
All Uses	2,400 sq. ft.	51 to 100 feet	15 feet see #3	5 feet see #1, #3	5 feet see #2	45 feet
All Uses	2,400 sq. ft.	101 or more feet	20 feet see #3	5 feet see #1, #3	5 feet see #2	45 feet

Exceptions

- #1. A side yard of 10 feet shall be required where a lot is adjacent to or abuts a residential district.
- #2. A rear yard of 20 feet shall be required where a lot is adjacent to or abuts a residential district.
- #3. The average front and side yard setback existing on each street shall apply.
- #4. See also Adjustment to Yard Regulations (Chapter 9) for specific exceptions.

6

I-1: INDUSTRIAL DISTRICT

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

6.01 Permitted Uses

Permitted Use	Applicable Standards
Agribusiness	8.02, 8.04, 8.05, 8.11
Automobile Parking Lots	8.02, 8.04, 8.05, 8.11
Automobile Storage Yard	8.02, 8.04, 8.05, 8.08, 8.11
Car Wash	8.02, 8.04, 8.05, 8.11 Water from car wash contained on the site.
Cannabis Cultivation	16.01, 16.02, 16.03
Cannabis Testing Facilities	16.01, 16.02, 16.04
Cannabis Product Manufacturing Facilities	16.01, 16.02, 16.05
Cannabis Dispensaries	16.01, 16.02, 16.06, 16.07
Commercial Recreation Facility	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 20 square feet in area.
Contractor's Shop/Storage Yard	8.02, 8.04, 8.05, 8.11
Electrical Substation	8.02, 8.11 An opaque screen, 6 feet in height, located at all setback lines.
Farm Implement Sales, Display, and Service	8.02, 8.04, 8.05, 8.11
Farm Store or Feed Store	8.02, 8.04, 8.05, 8.11
Fence	8.02, 8.11
Funeral Home / Mortuary	8.02, 8.04, 8.05, 8.11
Grain Terminal	8.02, 8.04, 8.05, 8.11
Greenhouse / Nursery	8.02, 8.04, 8.05, 8.11
Hospital / Clinic	8.02, 8.04, 8.05, 8.11
Hotel / Motel	8.02, 8.04, 8.05, 8.11
Lumberyard	8.02, 8.04, 8.05, 8.11 Subject to the screening of all outdoor storage from view.
Motor Vehicle Repair Shop	8.02, 8.04, 8.05, 8.11

Permitted Use	Applicable Standards
Motor Vehicle Sales, Display, and Service	8.02, 8.04, 8.05, 8.11
Motor Vehicle Service Station / Gas Dispensing Station	8.02, 8.04, 8.05, 8.11
Office	8.02, 8.04, 8.05, 8.11
Off-premise Signs	8.02, 8.06
Parks	8.02, 8.04, 8.05, 8.11
Personal Service	8.02, 8.04, 8.05, 8.11
Printing Plant	8.02, 8.04, 8.05, 8.11
Private Club	8.02, 8.04, 8.05, 8.11
Public Service Facility	8.02, 8.04, 8.05, 8.11
Public Utility Facility	8.02, 8.04, 8.05, 8.11
Recreation Areas and Facilities	8.02, 8.04, 8.05, 8.11
Restaurants	8.02, 8.04, 8.05, 8.11
Retail Trade or Service	8.02, 8.04, 8.05, 8.11
Temporary Signs	8.02, 8.07
Truck or Bus Wash	All water from the truck or bus wash being contained on the site. 8.02, 8.04, 8.05, 8.11
Warehouse	8.02, 8.04, 8.05, 8.11
Wholesale Trade	8.02, 8.04, 8.05, 8.11
Accessory Use (i.e. garage, shed)	8.03, 9.01 (see definition)

(Amended: Ord. No. 007-2021, Effective 12/23/21)

6.02 Conditional Uses

Conditional Use	Applicable Standards
Broadcast Tower	8.02, 8.04, 8.05, 8.11, & 13.05
Distillation of Products	8.02, 8.04, 8.05, 8.11, & 13.05
General Manufacturing	8.02, 8.04, 8.05, 8.11, & 13.05
Manufacture and storage of Electric Transformers	Chemicals associated with the transformers will be contained in an acceptable manner. 8.02, 8.04, 8.05, 8.11, & 13.05
Mining	8.02, 8.04, 8.05, 8.11, & 13.05
Municipality Owned Waste Water Treatment Facility	8.02, 8.04, 8.05, 8.11, & 13.05
Paper Manufacturing, Smelting, Boiler Works	8.02, 8.04, 8.05, 8.11, & 13.05 Compliance with the City's fire and health code.
Quarry	8.02, 8.04, 8.05, 8.11, & 13.05

	Subject to the site being located at least 1,000 feet from commercial or residential properties.
Recycling Collection Facility	8.02, 8.04, 8.05, 8.11, & 13.05
Recycling Processing Facility	8.02, 8.04, 8.05, 8.11, & 13.05
Refining	8.02, 8.04, 8.05, 8.11, & 13.05
Rendering	8.02, 8.04, 8.05, 8.11, & 13.05 Location shall not be located within ¼ mile of a residential area
Conditional Use	Applicable Standards
Salvage Yard	8.02, 8.04, 8.05, 8.11, & 13.05 Being sited off the main thoroughfares of the City, ¼ mile from a residential district and be screened from view. The owner shall agree to control rodents as a condition of the permit.
Solid Waste Transfer Facility	8.02, 8.04, 8.05, 8.11, & 13.05 Screening of the storage area with fence, berm, or vegetation.
Stockyards / Slaughtering of Animals	8.02, 8.04, 8.05, 8.11, & 13.05
Tank Farm / Petroleum Products Terminal	8.02, 8.04, 8.05, 8.11, & 13.05
Wireless Communication Facility	8.02, 8.09, & 13.05

6.03 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 9.04).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	NA	60 feet	20 feet see #4	10 feet See #2, #4	20 feet See #3	45 feet See #1

Exceptions

- #1. Nonhabitable structures will be permitted to have a maximum height of 60 feet.
- #2. A side yard of 15 feet shall be required where a lot is adjacent to or abuts a residential district.
- #3. A rear yard of 25 feet shall be required where a lot is adjacent to or abuts a residential district.
- #4. There shall be a required front yard on each street side of a corner lot and double frontage lot.
- #5. See all Adjustment to Yard Regulations (Chapter 9) for other specific exceptions.

7

CR: CONSERVATION AND RECREATION DISTRICT

The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural areas from encroachment by incompatible uses. The area will also provide protection from floods and erosion, to preserve natural settings for wildlife habitats, to add to the aesthetic quality of the community, and to prevent the destruction or pollution of valuable and irreplaceable natural resources.

7.01 Permitted Uses

Permitted Use	Applicable Standards
Agriculture	8.02
Public Park Areas	8.02, 8.04, 8.05, 8.11 One freestanding sign not to exceed 20 square feet in area.

7.02 Conditional Uses

Conditional Use	Applicable Standards
Public Utility Facility	8.02, 8.04, 8.05, 8.11, & 13.05
Electrical Substation	8.02, 8.04, 8.05, 8.11, & 13.05

7.03 Lot and yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	1 acre	150 feet	75 feet	30 feet	50 feet	35 feet

Exceptions

#1. See Adjustment to Yard Regulations (Chapter 10) for specific exceptions.

8

ADDITIONAL USE REGULATIONS

8.01 Adult Uses

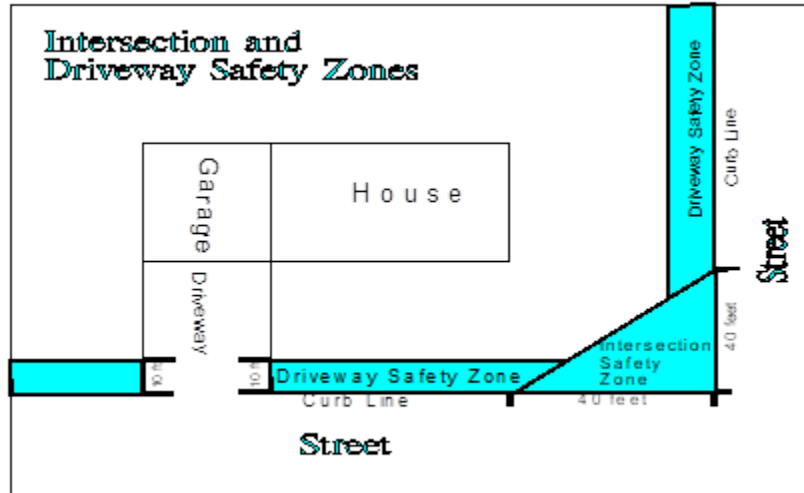
It is recognized that there are some uses which are recognized as having serious objectionable operational characteristics, and are not compatible with certain uses. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

- A. No adult use may be established, operated, or maintained within one hundred fifty (150) feet of a residential district, a church, a school, or public park, as measured from the closest point of the property lines.
- B. No more than two (2) adult uses or one (1) adult use and one (1) on-sale liquor establishment may be established, operated, or maintained within one hundred fifty (150) feet of each other as measured from the closest point of the outside wall of the building or tenant space.

8.02 Visibility at Intersections and Driveways

- A. Intersection Safety Zones: No monument style sign or other sign with its face less than twelve (12) feet above grade or any fence, wall, shrub or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted or maintained within a triangular area of a corner lot that is included by measuring straight lines along the curb lines at points forty (40) feet in distance in each direction from the intersection of the curbs and a straight line connecting the first two lines. (See Figure 1)
- B. Driveway Safety Zones: No monument style sign or other sign within its face less than ten (10) feet above grade or any fence, wall, shrub, or other obstruction to vision exceeding three (3) feet in height above the established street grade shall be erected, planted, or maintained within the area from the curb line to ten (10) feet behind the curb line. (See Figure 1)

FIGURE 1



8.03 Accessory Use and Structure

Accessory uses and structures shall conform to the following standards:

- A. A private residential garage used only for the housing of noncommercial passenger automobiles. The siding shall be of a type and material similar to that utilized on residential construction.
- B. Any accessory building which covers more than 144 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds.
- C. Accessory buildings may not be used for dwelling purposes.
- D. Yard setbacks may be adjusted as according to 9.03.
- E. Additional Standards for Sheds

1. Size Restrictions

- a. Maximum size of a shed is two hundred (200) sq. ft.
- b. Maximum height of shed sidewalls is eight (8) feet. The maximum height of a shed may be increased through a conditional use permit.
- c. A shed must not occupy more than 30% of the rear yard.

2. Location and Setback Requirements

- a. Sheds must be setback a minimum of ten (10) feet from the principal structure.

- b. Front Yard Setback: 60 feet
- c. Rear Yard Setback: 7 feet
- d. Side Yard Setback: 7 feet
- e. Alleyway Setback: 7 feet
- f. For corner lots or double-frontage lots, the Front Yard Setback is 60 feet and the Side-Front-Side Setback is 7 feet.
- g. Yard setbacks may be adjusted as according to Chapter 9.03.

3. Building Requirements

- a. The pitch of the roof must not be less than one foot of rise for each four feet of horizontal run.
- b. Roof Material: Must be material utilized on Residential Structures.
- c. Sheds must be either post frame or stick frame.
- d. Foundation: Wood or masonry must form a complete enclosure under the exterior walls of the shed, this applies to Sheds being moved in and new builds.
- e. Approved materials for the exterior walls of the shed include: Brick, Concrete or Composite Boards, Artificial or Natural Stone, Exterior Grade of Natural or Composite Wood, Stucco, Residential Lap Siding made of Vinyl, Steel, or Aluminum. For steel, two (2) colors of wainscoting is allowed.
- f. Sheds must not be used for dwelling purposes.

(Amended: Ord. No. 2024-003, Effective 05/01/24)

8.04 Off-street parking

A. General Conditions

- 1. No parking spaces are permitted in the required front or side yard in any district except for portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this title.
- 2. Parking spaces may be permitted in any required rear yard.
- 3. Each parking space shall be directly accessible to an access aisle.

B. Required Parking Spaces

In computing the number of required off-street parking spaces the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces

required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see TABLE 1 below:

TABLE 1: Minimum Off-Street Parking & Loading Requirements

Uses & Structures	Minimum Parking Requirements
Single-family and two-family dwellings	2 spaces for each dwelling unit
Multiple-family dwellings	1 ½ spaces for each dwelling unit of 1 bedroom. 2 spaces for each dwelling unit of 2 bedrooms or more.
Rooming and boarding houses, sororities and fraternities	1 parking space every 2 rental units
Bowling Alleys	2 spaces per lane
Church or Temple	1 space for each 5 seats in main seating area
Private Club or Lodge	1 parking space for each 300 square feet of floor area
High School	4 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any auditorium, gymnasium, or cafeteria intended to be used as an auditorium
Elementary School	2 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any auditorium, gymnasium, or cafeteria to be used as an auditorium
Eating and Drinking Places	1 space for each 300 square feet of gross floor area
Hospitals	1 space for each 2 beds
Nursing, convalescent and rest homes	1 space for each 3 beds
Auditoriums, theaters and places of public assembly	1 space for each 5 seats of design capacity
Hotels and Motels	1 space for each 2 rental rooms
Funeral Homes	1 space for each 4 seats in the chapel
Retail Sales Establishment	1 space for each 300 square feet of floor area
Medical and Dental Clinics	1 space for each 2 staff members and full-time employees, plus 1 space for each 600 square feet of gross floor area
Manufactured Home Parks	2 spaces for each
Industrial Uses	1 space for each 2 employees on the maximum working shift
Service Establishments	1 space for each 300 square feet of floor area
Wholesale and Distribution Establishments	1 space for each 2 employees on the maximum working shift

All other uses not specified above shall have the minimum off street parking and off-street loading spaces as determined by the City Council.

C. Vehicle Storage in Residential Zones

1. **Definitions.** For the purposes of this section, the following terms shall have the meaning given herein.
 - a. "Park," "parking," "stored," and "storage" mean on-site parking on residential property for a continuous period more than twenty-four hours.
 - b. "Motorized Recreational Vehicle" means a motorhome built on a truck or bus chassis or a van chassis.
 - c. "Non-Motorized Recreational Vehicle" means an open or enclosed towable recreational vehicle, combining transportation and temporary living quarters that can be unhitched. Including but not limited to: travel trailers, folding camping trailers, and utility trailers. Also includes, but not limited to: boats, horse trailers, utility trailers for storing recreational vehicles and equipment, and trailers used to store motorcycles, personal watercrafts, or all-terrain vehicles.
 - d. "Recreational Vehicle" means motorized and non-motorized vehicles that combine transportation and living quarters for travel, recreation, and camping.
2. **Vehicle Storage.** No person shall keep, store, or otherwise permit any of the following on a lot or parcel of land zoned for residential use:
 - a. Any Semi-truck or component thereof shall not be allowed for storage or parked for more than a period of 24 hours.
 - b. Any vehicle or component thereof which is located on the front yard, not located on either a paved driveway surface or driveway surface approved by the Authorized Agent. For corner lots, the Authorized Agent will determine which side of dwelling unit is the front yard for the purposes of this section.
 - c. Any vehicle or component thereof which creates a pedestrian or vehicular safety hazard.
 - d. Penalty.
 - 1) The City's Authorized Agent will provide a notice of violation to any vehicle or component thereof parked or stored in violation of this

ordinance. The vehicle or component thereof must be moved within twenty-four (24) hours from the date of the notice of violation.

2) Any vehicle not moved within twenty-four (24) hours from the date of the notice of violation will be fined \$25 per day until the vehicle or component thereof is moved and in compliance with these regulations.

e. Exceptions. The driver of an authorized emergency vehicle, when responding to an emergency call or in pursuit of an actual or suspected violator of the law or when responding to a fire alarm, may park or locate their vehicles irrespective of these provisions.

3. Motorized Recreational, Non-Motorized recreational Vehicle, Boat, and Trailer Parking.

a. Purpose. The purpose of these regulations is to establish standards for the parking and storage of recreational vehicles, boats, truck campers, and trailers in residential zones to protect the value, character, public health, and safety of residential neighborhoods.

b. Standards.

1) Storing and parking of recreational vehicles shall be allowed year round so long as the vehicle is not connected to city water or sewer services and no person lives in it.

2) No parking or storage may occur in the front yard. For corner lots, the Authorized Agent will determine which side of dwelling unit is the front yard for the purposes of this section. Temporary parking of a recreational vehicle on a paved driveway in the front yard shall be allowed for up to two consecutive days for the purpose of loading, unloading, or otherwise prepping and cleaning the recreational vehicle. Temporary parking of a recreational vehicle must not encroach onto the public sidewalk nor encroach into the public right-of-way.

3) Parking or storage is permitted in the side or back yard. Parking or storage must not encroach onto the public sidewalk nor encroach into the public right-of-way and must not be closer than fifteen feet (15) to lot line.

- 4) One (1) recreational vehicle not owned by the owner(s) or occupant(s) of the lot shall be allowed for a maximum of seven (7) days in any three (3) month period. A situation requiring an exception to this requirement must be approved by the City Council through a license pursuant to Chapter 4.01 of the Revised Municipal Ordinances of the City of Montrose.
- 5) The recreational vehicle is to be connected to an external electrical source and the vehicle generator may not be used.
- 6) All recreational vehicles stored or parked on a lot must have a current valid license plate affixed thereto and visible at all times. Any vehicle without a current valid license plat shall be declared an inoperable vehicle and subject to Chapter 3.01 of the Revised Municipal Ordinances of the City of Montrose.

c. Penalty.

- 1) The City's Authorized Agent will provide a notice of violation to any vehicle or component thereof parked or stored in violation of this ordinance. The vehicle or component thereof must be moved within twenty-four (24) hours from the date of the notice of violation.
- 2) Any vehicle not moved within twenty-four (24) hours from the date of the notice of violation will fined \$25 per day until the vehicle or component thereof is moved and in compliance with these regulations.

(Amended: Ord. No. 2022-001; Ord. No. 2022-004, Effective 02/08/23)

8.05 On-Premise Signs

B-1 and CR Districts - On-site only signs. Signs shall not exceed four (4) square feet in area indicating the type of plant being grown or the type of fertilizer being used. *Specified uses are listed within the districts permitted and conditional uses applicable standard tables (section 3.01, 3.02, 7.01, and 7.02).

R-1 District - On-site only signs. Signs shall not exceed two (2) square feet in area and shall be located on the wall. Maximum height of all signs shall be ten (10) feet above grade level. *Specified uses are listed within the districts permitted and conditional uses applicable standard tables (section 4.01 and 4.02).

B-2 and 1-1 Districts - On-site only signs. Freestanding and projecting signs shall not exceed one (1) square foot per one (1) foot of lineal street frontage. Wall and

roof signs shall not exceed two (2) square feet per one (1) foot of lineal street frontage. The maximum area for all signs shall not exceed two hundred (200) square feet. The maximum height for roof and projecting signs shall not be more than five (5) above the roof line and freestanding signs shall not exceed thirty (30) feet above grade. *Specified uses are listed within the districts permitted and conditional uses applicable standard tables (sections 5.01, 5.02, 6.01, and 6.02).

8.06 Off-Premise Signs

Off-premise signs are allowed in the B-1 and 1-1 Districts subject to the following regulations:

- A. Surface area of any sign shall not exceed one (1) square foot per two (2) feet of frontage of the lot on which it is located.
- B. The highest point of any sign shall not exceed twenty (20) feet, measured from the base of the supports to the top of the sign.
- C. Each sign shall be located a minimum of thirty (30) feet from a street right-of-way line.

8.07 Temporary Signs

The following signs shall be permitted anywhere within the jurisdiction and shall be required to have a permit for a temporary sign unless otherwise specified:

- A. Contractor's Signs - Signs identifying individual contractors associated with any construction shall be limited in size to twelve (12) square feet. Contractor's signs of twelve (12) square feet or less do not require permits. However, these shall be subject to section 8.02 Visibility at Intersections and Driveways.
- B. Construction Signs - Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of sixteen (16) square feet for each firm up to a total maximum of ninety-six (96) square feet. No sign shall be located within any right-of-way nor shall any sign be located so as to violate section 8.02 Visibility at Intersections and Driveways. The sign shall be confined to the site of construction and shall be removed within ten (10) days of the beginning of the intended use of the project.
- C. Real Estate Signs - Real estate signs advertising the sale, rental, or lease of the premise or part of the premise on which the signs are displayed up to a total of six (6) square feet, are not required to have a permit. All signs larger

than six (6) square feet will be required to obtain a permit. All such signs shall be removed within fourteen (14) days of the sale, rental, or lease, and shall be placed only on the property which is for sale or lease. No sign shall be located within any right-of-way nor shall any sign be located so as to violate section 8.02 Visibility at Intersections and Driveways.

D. Temporary Subdivision Construction Sign -

1. One temporary sign at each street entrance to a new subdivision is permitted. Such signs shall not exceed thirty-two (32) square feet and shall be limited to the name of the subdivision, the developer and the developer's address and telephone number.
2. No temporary subdivision sign shall be erected prior to receiving primary plat approval by the City Council. Temporary subdivision signs are permitted for a period of one (1) year from the date of construction, provided that they shall be removed upon the erection of permanent subdivision identification signs.

E. Political Campaign Signs - Political campaign signs announcing the candidates seeking public offices, issues and other date pertinent thereto, up to a total area of fifteen (15) square feet, are not required to have a permit. All signs larger than fifteen (15) square feet will be required to obtain a permit. Such signs may be displayed for forty-five (45) days prior to the election for which they apply. There shall be no limit to the number of signs per premise. These signs shall be confined within private property and not within the street right-of-way and shall be removed within seven (7) days after the election for which they apply.

F. Banners - Banners advertising public, church, or service organization entertainment or events, may be approved by the Authorized Official. Banners will be allowed during and for fourteen (14) days before and three (3) days after the event.

G. Portable Signs - Portable signs with message boards advertising special products or otherwise promoting business or individuals are not permitted, except as follows:

1. The Authorized Official may issue a fourteen (14) day permit for a portable sign to be established at an approved location as a temporary portable sign upon an application stating that such request is for a special event or promotion.
2. Under no circumstances shall more than two (2) such permits be issued to any one (1) location in any calendar year.

- H. Temporary Uses and Special Events - Signs associated with events and temporary uses operated by nonprofit and not for profit entities shall conform to the provisions of this chapter including permit requirements. However, these signs shall be exempt from fees.
- I. Individual Sale Signs - Signs advertising garage sales, rummage sales, yard sales, and similar types of sales do not require permits. Said signs shall be six (6) square feet or less and shall not be located in any right-of-way. Individual sale signs shall be allowed only during the actual days of the sale and shall be removed by the operator after the sale.
- J. Roadside Sales Stands - Signs identifying roadside sales stands are permitted in all zoning districts, subject to the following:
 - 1. One (1) sign shall be permitted off-site to advertise the sales stand, provided that the sign does not exceed twelve (12) square feet and is located in a public right-of-way. Additionally, written evidence of the property owner's permission to erect the sign must be presented with the permit application.
 - 2. Signs for roadside sales stands are permitted only for the season during which the stand is open.

8.08 Fences

Fences may be erected in the required yards, provided they meet or exceed the following requirements:

- A. No barbed wire fence shall be erected or maintained.
- B. The footprint of the fence must not exceed more than 30% of the yard.
- C. All fences must meet the following setbacks from the property line:
 - 1. Front: 3 feet
 - 2. Side-Street-Side: 3 feet
 - 3. Side: 3 feet
 - 4. Rear: 3 feet
 - 5. Alleyway: 3 feet
- D. Fences in Residential Districts are subject to the following requirements:
 - 1. Fences may be erected or maintained but must not exceed six (6) feet in height in the side or back yards.

2. Front Yard: Fences must not exceed four (4) feet in height in the front yard.
 3. Corner Lots and Double Frontage Lots: On corner lots, a fence in the required front yard must not exceed four (4) feet in height; a fence not to exceed six (6) feet in height is allowed on the side-street-side front yard.
- E. Fences in Business and Industrial Districts are subject to the following requirements:
1. Fences may be erected or maintained but must not exceed eight (8) feet on any part of a lot. Fences are not allowed in the required front yard when adjacent to a residential use.
- F. No fence shall be erected which violates *Chapter 8.02 - Visibility at Intersections and Driveways*.
- G. To preserve the neighborhood character of the municipality, fences must be a traditional design, such as a split rail or picket style.
- H. The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be eight (8) feet and for public tennis courts, twelve (12) feet on any portion of the lot.

(Amended: Ord. No. 2024-006, Effective 09/11/24)

8.09 Telecommunications Tower, Antenna Support Structures and Wireless Communications Facilities.

Regulations regarding development of telecommunications towers, antenna structures and wireless communications facilities are intended to encourage the development of a competitive wireless communications marketplace while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The regulations cover the placement, construction, and modification of telecommunications facilities.

- A. A minimum distance of 300 feet from the telecommunications tower to any residentially zoned or used property measured from the base of the telecommunications tower to the property line.
- B. A minimum distance of ½ mile between telecommunications towers measured from the base of one telecommunications tower to the base of another except when an existing antenna support structure is used to co-locate a wireless communication facility.

- C. Building permit shall include documented Federal Communications Commission (FCC) approval prior to permit issuance. When such structure is located in an airport approach zone, Federal Aviation Administration (FAA) approval will be required prior to permit issuance.
- D. The tower shall be constructed in a manner that will make it inaccessible for unauthorized person to climb.

8.10 Site-Built Single-Family and Multi-Family Dwelling Standards

- A. The pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run.
- B. The minimum width of the main body of the site-built dwelling shall not be less than twenty (20) feet, as measured across the narrowest portion.
- C. A wood or masonry foundation shall form a complete enclosure under the exterior walls.

8.11 Landscaping Standards

It is the desire of the City of Montrose to encourage development which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

- A. Within any zoning district, at least 80 percent of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways (see 8.04).
- B. The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with sod, seed, or other living ground cover.
- C. Landscape areas must be capable of providing a substantially full expanse of foliage within three (3) years after planting. Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three (3) feet horizontal to one (1) foot vertical and sodded or planted with other acceptable living ground cover.
- D. Screening: A fence, wall, or shrubbery six (6) feet in height and of a character necessary for adequate screening shall be installed or planted when a parking lot is located adjacent to residentially used property or across the

right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the six (6) foot screening if they have a maximum grade of three (3) feet horizontal to one (1) foot vertical and sodded or planted with other acceptable living ground cover.

- E. Parking Lot Buffer Areas: A setback of at least five (5) feet shall be provided between a parking lot and residentially zoned property.

Exception: If proper screening is provided, the setback may be two (2) feet.

8.12 Home Occupations

Home occupations are those secondary uses allowed on a premise in conjunction with the following:

- A. The occupation must be conducted within an enclosed structure.
- B. The occupation must be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes.
- C. Members of the immediate family residing on the premises and up to 2 additional employees may participate in the home occupation.
- D. There can be no evidence other than the nameplate that will indicate from the exterior that the building is being utilized in part for any other purpose other than that of a dwelling. There is used no sign which is attached to the building other than a nameplate. The sign shall not be illuminated or more than two square feet in area.
- E. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling.
- F. Materials that are combustible, toxic or consist of any animal or vegetable matter cannot be stored on the premises.
- G. Any process which will cause odor, dust, glare, noise, heat or vibration which would have a negative effect on adjacent properties would not be allowed.

8.13 Manufactured Homes and Manufactured Home Parks

- A. Manufactured Homes – General Regulations.

1. The pitch of the main roof shall not be less than three (3) inches of vertical rise for each twelve (12) inches of horizontal run.
 2. The width of manufactured homes shall be at least twenty-two (22) feet.
 3. The use of flat or corrugated sheet metal for the exterior walls is prohibited.
 4. The manufactured home shall meet the requirements of the United States Department of Housing and Urban Development Safety Standards Act of 1974, effective 1976. The installation of a manufactured home shall not be permitted if more than five (5) years have elapsed between the date of manufacture of the manufactured home and the date of issuance of a building permit to install the manufactured home.
 5. The manufactured home's owner shall, at his or her own expense, hire a licensed termite inspector and take any and all actions necessary to eradicate termites from the dwelling. A copy of the termite inspector's report and documents detailing any and all necessary eradication efforts shall be filed with the City. No person shall relocate or bring a manufactured home into the City until the inspector's report has been reviewed by the City and it determines that it does not pose a termite infestation risk.
 6. Any manufactured home located within or moved into a manufactured home park shall comply with all current city regulations relating to Flood Damage Prevention, if applicable.
 7. In addition to the requirements of Chapter 13.05, any person proposing to locate a manufactured home within the City shall also include the following information as part of the application:
 - a. The VIN number, serial number, and model number of the manufactured home.
 - b. Photographs of the manufactured home sufficient to show its general condition and dimensions.
- B. Manufactured Home Park Standards. A manufactured home park may be developed as a Conditional Use in the R-1: Residential District. To be granted a Conditional Use Permit, a manufactured home park must meet all of the following requirements:

1. The site plan required by Chapter 13.05(A)(1)(e) shall include the legal and locational description of the property and maps showing the layout, dimensions, streets, utility lines, spaces, locations of manufactured homes and other buildings, and any other information which the Zoning Administrator deems necessary for the Board of Adjustment to make an informed decision regarding whether to approve a Conditional Use Permit.
 2. The manufactured home park shall be located on a well-drained area, and the land shall be properly graded to prevent the accumulation of storm or other waters.
 3. The manufactured home park shall be connected to the City's public water and sewer service. No owner or operator of a manufactured home park shall permit a manufactured home within the park to be connected to private water and sewer facilities, including, but not limited to, private water wells and septic tanks.
 4. Lots or spaces within the manufactured home park that are rented or leased for the placement of RVs and campers shall be rented or leased for a period of time of not less than twenty-eight (28) days and not greater than one hundred and eighty (180) days. No more than twenty-five percent (25%) of lots or spaces may be used for this purpose.
 5. Each manufactured home located on a space within a manufactured home park shall be properly secured to the ground with either a permanent foundation extending at least four (4) feet below grade, or with tie downs installed as recommended by the manufacturer, but in no event more than twelve (12) feet apart along the perimeter of the building. The tie downs shall extend at least (4) feet below grade.
- C. Non-Conforming Manufactured Home Parks. A manufactured home park existing at the time of the adoption of this Ordinance, or amendment thereto, that does not meet the requirements of its zoning district shall be considered a Non-Conforming Use in conformance with Chapter 10.

(Amended: Ord. No. 2020-06, Effective: 09/04/20)

8.14 Reserved

(Amended: Ord. No. 2020-06, Effective: 09/04/20)

8.15 Bed and Breakfast Establishments

- A. Bed and Breakfast's shall be limited to residential structures.
- B. They shall be in compliance with the applicable state laws including South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
- C. Such uses shall be an incidental use with an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.
- D. The length of stay shall not exceed fourteen (14) days during any 120 day consecutive period.
- E. Meals shall be limited to breakfast which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

8.16 Decks

- A. Front yard Setback = 25ft
- B. Rear yard Setback = 25ft
- C. Side yard Setback = 7ft
- D. Alleyway Setback = 20ft
- E. Decks that do not extend above the ground level may project into the required yard, as long as the deck is setback at least two (2) feet from the adjacent side or rear lot line.
- F. Any deck built above ground level, with a height greater or equal to thirty (30) inches is required to have steps, handrails and side rails.

(Amended: Ord. No. 2024-005, Effective 05/01/24)

9

ADJUSTMENT TO YARD REGULATIONS

9.01 Location of Some Accessory Buildings

Accessory structures located ten (10) feet or more from the main building and set back sixty (60) feet from all front property lines may be erected within three (3) feet of the side and rear property lines. In all cases, accessory structures shall not occupy more than 30 percent of the rear yard. A garage which is entered directly from the alley shall not be closer than twenty (20) feet to the alley line.

9.02 Adjustment to Front Yard Requirements

A front yard may be adjusted to an average of the adjacent structures front yards where existing adjacent structures have a front yard less than required.

9.03 Adjustment to Side Yard Requirements

Buildings constructed prior to the effective date of this Ordinance with side yard setbacks of less than required by this Ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

9.04 Projection from Buildings

Every part of any required yard shall be open to the sky and unobstructed except:

- A. Eaves may project into a front, side, or rear yard;
- B. Ordinary projection of sills, belt courses, cornices, vertical solar screen, and ornamental features which may project twelve (12) inches;
- C. Air conditioner may project three (3) feet from the building;
- D. An open, unenclosed porch may project into a required front yard for a distance not exceeding ten (10) feet while balconies and paved terraces may project six
- E. (6) feet into a required front yard; and

- F. Terraces, uncovered porches, platforms, decks, and ornamental features which do not extend above the level ground may project into a required yard, provided these projections be distances at least two (2) feet from the adjacent side or rear lot line.

10

NON-CONFORMING AND NONSTANDARD USES

10.01 Purpose and Intent

The purpose of this chapter is to provide for the regulation of nonconforming uses, buildings and structures and to specify those circumstances under which they shall be permitted to continue.

10.02 Continuation of Nonconforming Uses

Subject to the provisions of this chapter, the lawful use of a premise existing immediately prior to the effective date of this title may be continued although the use does not conform to the provisions hereof.

10.03 Use Becoming Nonconforming by Change in Law or Boundaries

Whenever the use of a premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued although the use does not conform to the provisions hereof.

10.04 Extension or Enlargement

A nonconforming use shall not be enlarged, extended, converted, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which the premise is located or unless authorized under the provisions of section 10.09 or required to do so by law or

10.05 Restoration after Damage

When the use of a building is nonconforming as defined by this title and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than 50 percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located or in conformance with the provisions of section 13.04.

10.06 Discontinuation of Nonconforming Uses

If the nonconforming use is discontinued for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises shall be in conformance with such regulation.

10.07 Effect on Use Which Is Illegal Under Prior Law

Nothing in this title shall be interpreted as authorization for, or approval of, the continuance of the use of a premise in violation of zoning regulations in effect immediately prior to the effective date of this title.

10.08 Continuation of Nonstandard Uses

Nonstandard uses existing immediately prior to the effective date of this title may be continued, although such uses do not conform to the provisions hereof.

Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed or structurally altered as follows:

- A. Enlargements, extensions, conversions or structural alterations may be made as required by law or ordinance.
- B. Structural alterations of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yard for the district in which they are located.
- C. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking and density for the district in which they are located.

No enlargement, extension, conversion of buildings or structures, structural alterations of buildings or structures shall be made without having first obtained a building permit available from the Authorized Official of the City of Montrose.

10.09 Nonconforming Uses

A conditional use permit may be granted to authorize the issuance of a permit to allow the enlargement, extension, conversion, reconstruction or structural alteration of any building, structure or outdoor use. In consideration for a permit, the following criteria shall be given specific consideration:

- A. Effect on surrounding property values.
- B. Impact on traffic and City utility services.
- C. The density of land use zoning for the subject and adjacent properties.
- D. The degree of hardship upon the applicant which would be caused by failure to grant the permit.
- E. It can be demonstrated that it was the owner's intent to use the entire premise for said use prior to the adoption, revision or amendment of this title.

11

ADMINISTRATION AND ENFORCEMENT

11.01 Powers and Duties

The Authorized Official is hereby authorized and directed to enforce all the provisions of the Zoning Ordinance and establish rules for its administration. For such purposes he or she shall have the powers of a law enforcement officer. The Authorized Official shall have the power to render interpretations of this ordinance. Such interpretations shall be within the intent and purpose of the Zoning Ordinance, and be set forth in writing. In addition, the Authorized Official may appoint or solicit technical advice, inspectors, City officials and other City employees to assist with the administration of the Zoning Ordinance.

11.02 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this title, the Authorized Official and the authorized representatives may enter such building or premises at all reasonable times to inspect. Provided such building or premise is occupied, the Authorized Official or authorized representative shall first present proper credentials and request entry. If such building or premise is unoccupied, the Authorized Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premise and request entry. If such entry is refused, the Authorized Official or authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Authorized Official or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry of the building or premise engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work or use until authorized by the Authorized Official to proceed with the work or use.

11.03 Stop Order

Whenever any work or use is being done contrary to the provisions of this title, the Authorized Official may order the work or use stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work or use until authorized by the Authorized Official to proceed with the work or use.

12

BUILDING PERMIT AND FEES

12.01 Building Permits

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this ordinance including use, height, number of occupants, lot area, off-street parking or yard requirements, shall occur without a Building Permit issued by the Authorized Official of the City of Montrose.

- A. An application for a Building Permit, available from the Authorized Official of the City of Montrose, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Authorized Official of the City of Montrose for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - 1. Any required attachments and City fees;
 - 2. Two copies of plans drawn to scale, showing the dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.
 - 3. Any additional information, as requested by the Authorized Official of the City of Montrose, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
- B. A temporary Building Permit may be issued by the Authorized Official of the City of Montrose for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion. The Authorized Official of the City of Montrose may attach conditions and safeguards to said temporary permit to protect the safety of the occupants and the public.
- C. One copy of the plans shall be returned to the applicant, after the Authorized Official of the City of Montrose has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Authorized Official of the City of Montrose for City records.

- D. If the Authorized Official of the City of Montrose determines the proposed action would not be in compliance with the provisions of these regulations, a Building Permit may not be issued, except upon completion of one of the following processes established in these regulations, as may be applicable to such proposed action. The Authorized Official of the City of Montrose shall inform the applicant when one of the following processes may be applicable:
1. Variance
 2. Amendment
 3. Conditional Use
- E. Issuance of a Building Permit shall indicate that, in the opinion of the Authorized Official of the City of Montrose, the proposed use and/or alterations of existing use are in compliance with the requirements of these Zoning Regulations. Issuance of a Building Permit shall not be construed as waiving any provisions of these regulations. Proposed uses and/or alterations of existing uses which are not in compliance with the requirements of these Zoning Regulations shall not be issued a Building Permit.

12.02 Fees

A schedule of fees, charges, and expenses for permits, change of zone, appeals, and other matters pertaining to this Zoning Ordinance shall be established by resolution of the City Council. The current fee schedule shall be available from the Authorized Official of the City of Montrose. All fees shall be property of the City and shall be paid over to the Authorized Official of the City of Montrose for credit to the General Fund of the City which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

12.03 Expiration of Building Permit

If the activities described in any permit have not begun within ninety (90) days from the date of issuance, the permit shall be canceled by the City Finance Officer and written notice given to the persons affected.

If the activities described in any permit have not been completed within one (1) year of the date of issuance, said permit shall expire and be canceled by the City Finance Officer and written notice shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained. The City Finance Officer may grant a ninety (90) day extension if deemed necessary for an activity state in the permit.

13

BOARD OF ADJUSTMENT

13.01 Establishment

A Board of Adjustment is hereby established for the City of Montrose, which shall consist of the members of the Planning Commission, pursuant to SDCL 11-4-24.

13.02 Powers and Duties

The Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Authorized Official of the City of Montrose in the enforcement of this ordinance.
- B. To hear and decide appeals to decisions made by the Authorized Official of the City of Montrose regarding Building Permits.
- C. To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.
- D. To hear and decide only such conditional use permits as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional use permits when not in harmony with the purpose and intent of this ordinance and the City's comprehensive plan.

13.03 Appeal Procedure

- A. Any person or persons, jointly or severally, aggrieved by any decision of the Authorized Official, may present to that Official, a notice of appeal, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Authorized Official of the City of Montrose, who shall transmit to the Board of Adjustment all information and records concerning the appeal. Such notice of appeal shall

be presented to the Authorized Official within thirty (30) days after the filing of the decision in the office of the Authorized Official.

- B. The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the Chairman and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. A sign shall be posted in a conspicuous place on the property and the Authorized Official of the City of Montrose shall publish notice of the public hearing in a legal newspaper of the City no less than ten (10) days before the public hearing.
- C. The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of three-fourths (3/4) of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.

13.04 Variances

The Board of Adjustment (Zoning Committee) shall have the jurisdiction to hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public at large within the City, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. The following issues are to be considered, each and all of them, as determining factors in whether or not the issuance of a variance is justified:

- A. An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this Chapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.
- B. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
- C. The variance requested is the minimum variance that will alleviate the hardship.

- D. Granting of the variance will comply with the general purpose and intent of this ordinance, and will not be offensive to adjacent areas or to the public welfare.
- E. No nonconforming use or structure in the same district and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.
- F. Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- G. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Variance. A Variance shall remain valid only as long as the property owner complies with any terms and conditions of the Variance, as attached by the Board of Adjustment.
- H. An Application for a Variance, available from the Authorized Official (Finance Officer) of the City of Montrose, shall be completed by the landowner requesting the Variance. Completed applications shall be returned to the Authorized Official for review. To be considered completed, the application shall contain the following information:
 - 1. Legal description of the land on which such variance is requested, together with local street address;
 - 2. Name and address of each owner of the property;
 - 3. Name, address, phone number and signature of the applicant;
 - 4. Zoning district classification under which the property is regulated at the time of such application;
 - 5. Description of the variance sought from the Zoning Regulations;
 - 6. Be accompanied with a site plan, unless waived by the Authorized Official.
- I. The Authorized Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall include a

summary of the application, and the reasons and justification for either approval or disapproval of the application.

- J. The Authorized Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Authorized Official shall notify the landowner by mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Variance no less than ten (10) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Authorized Official shall publish notice of the public hearing in a legal newspaper of the city.
- K. The public hearing shall be held. The applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance or arrive at any determination.

(Amended: Ord. No. 2025-004, Effective 10/07/25)

13.05 Conditional Use

A. Procedure

Conditional Uses are allowed for certain uses in some districts as defined in the District Regulations. Uses not listed in the District Regulations as eligible for a Conditional Use Permit shall not, in any circumstance, be granted a Conditional Use Permit.

The following procedure for requesting a Conditional Use Permit shall be followed:

1. An application for a Conditional Use Permit, available from the Authorized Official, shall be completed by the landowner requesting the Conditional Use Permit. Completed applications shall be returned to the Authorized Official for review.

To be considered completed, the application shall contain the following information:

- a. Legal description of the land on which such conditional use is requested, together with local street address.
- b. Name and address of each owner of the property.

- c. Name, address, phone number and signature of the applicant.
- d. Zoning district classification under which the property is regulated at the time of such application.
- e. Be accompanied with a site plan, unless waived by the Authorized Official.

In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this title and all relevant laws, ordinances, rules and regulations.

Exception: The Authorized Official may waive the submission of plans if he/she finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

- 1) The address of the property and the legal description.
- 2) The name of the project and/or business.
- 3) The scale and north arrow.
- 4) All existing and proposed buildings or additions.
- 5) Dimensions of all buildings.
- 6) Distance from all building lines to property lines at the closest points.
- 7) Building height and number of stories.
- 8) Dimensions of all property lines.
- 9) Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.
- 10) Screening; show height, location and type of material to be used.
- 11) The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- 12) Name and location of all adjacent streets, alleys, waterways and other public place.

Approved plans shall not be changed, modified or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans.

- f. Any other information concerning the property as may be requested by the Authorized Official.
2. The Authorized Official shall review the application and make a recommendation to the Board of Adjustment to either approve or not approve said application. The Authorized Official's recommendation shall

include a summary of the application, and the reasons and justification for either approval or disapproval of the application. The Authorized Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Authorized Official shall notify the landowner by registered mail, and shall post notices of the public hearing at the City Office and on the property affected by the proposed Conditional Use Permit. No less than ten (10) days before the public hearing, the Authorized Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.

3. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Authorized Official:
 - a. The public hearing shall be held. Any person may appear in person or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment.
 - b. Before any Conditional Use Permits shall be granted, the Board of Adjustment may make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - 1) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - 2) Off-street parking and loading areas where required.
 - 3) Refuse and service areas, with particular reference to (a) and (b) above.
 - 4) Utilities, with reference to locations, availability, and compatibility.
 - 5) Screening and buffering with reference to type, dimensions, and character.
 - 6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district.
 - 7) Required yards and other open space.
 - 8) General compatibility with adjoining properties and other property in the zoning district in which such use is to be located.
4. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a

Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, attached by the Board of Adjustment. Failure to comply with the terms and conditions of a conditional use permit may subject the holder of a conditional use permit to revocation or other appropriate action, including, but not limited to, those remedies found in these ordinances, and enforcement actions as authorized herein. The failure to comply with the terms and conditions of a conditional use permit may be considered a violation of the Ordinance.

5. The Board of Adjustment may make a finding that it is either empowered or not empowered by these Zoning Regulations to grant the requested Conditional Use Permit, and that such Conditional Use Permit is either consistent or inconsistent with the intent of these Zoning Regulations.

13.06 Court Review

Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL 11-4-25.

14

AMENDMENTS AND CHANGE OF ZONE

14.01 Procedure

Zoning amendments and change of zones are changes to the City of Montrose's Zoning Regulations. Applications for amendment may be submitted by either the City or any owner of land within the City. The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, or repealed, provided however, that no such action may be taken until after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.

The following procedure for requesting an amendment shall be followed:

- A. The Authorized Official of the City of Montrose shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.
- B. The Authorized Official of the City of Montrose shall set the date, time and place for a Planning Commission public hearing. The Authorized Official of the City of Montrose shall post a sign of the public hearing on the property affected by a change of zone. The Authorized Official of the City of Montrose shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment and change of zone. Such notice shall be published in a legal newspaper of the City once not less than ten (10) days prior to the public hearing.
- C. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- D. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.
- E. The Authorized Official of the City of Montrose shall set the date, time and place for a City Council public hearing. The Authorized Official of the City of Montrose shall post a sign of the public hearing on the property affected by a change of zone. The Authorized Official of the City of Montrose shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment or change of zone. Such notice

shall be published in a legal newspaper of the City once not less than ten (10) days prior to the public hearing.

- F. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
- G. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect twenty (20) days after publication, unless the referendum shall have been invoked.

15

DEFINITIONS

15.01 Purpose

In the application of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include the past and future.
- B. Words used in the singular number shall include the plural number and the plural, the singular.
- C. The word "shall" is mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The words "used" or "occupied" shall include the words "intended," "designed," or "arranged to be used or occupied."
- F. The word "lot" shall include the words "plot," "parcel," or "tract."
- G. The word "person" shall include a "firm," "association," "organization," "partnership," "trust," "company," or "corporation" as well as an "individual."
- H. The word "building" shall include the words "structure" and "premises."
- I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

15.02 Definitions

ABUTTING - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term "abutting" implies a closer proximity than the term "adjacent."

ACCESSORY BUILDING OR USE - An accessory building or use is one which:

- 1. Is customary and clearly incidental to the principal use;
- 2. Serves exclusively the principal use;

3. Is subordinate in area, extent or purpose to the principal use served;
4. Contributes to the comfort, convenience, or necessity of occupants of the principal use served; and
5. Is located on the same zoning lot as the principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

ACTIVITY - Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

ADULT AMUSEMENT OR ENTERTAINMENT ESTABLISHMENT - Any use which has as part of its operations amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" or which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.

ADULT BOOKSTORES - An establishment having as a substantial or significant portion of its stock and trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined below, or an establishment with a segment or section devoted to the sale or display of such materials.

ADULT MINI-MOTION PICTURE THEATER - An enclosed building with a capacity for less than fifty (50) persons used for presenting material for observation by patrons and which excludes minors by virtue of age.

ADULT MOTION PICTURE THEATER – An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as herein defined, for observation by patrons therein.

ADULT PHOTO STUDIO - An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas."

ADULT USE - The term "adult use" shall include adult amusement or entertainment establishment, adult bookstores, adult mini motion picture theaters, adult motion pictures theaters, and adult photo studios.

AGRIBUSINESS - Farming engaged in as a large-scale business operation embracing the production, processing, and distribution of agricultural products and the manufacture of farm machinery, equipment, and supplies.

AGRICULTURE - The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This definition **shall not include** intensive agricultural activities such as feedlot operations, chicken farms, and agribusiness activities.

AIRPORT - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

ALLEY - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

ANTENNA - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

AQUIFER - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

ARCADE - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may also provide services, such as recreational activities, financial services, and transportation.

AUTOMOBILE STORAGE YARD - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

AWNING/CANOPY - A roof-like cover that is temporary in nature and projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BED AND BREAKFAST ESTABLISHMENT - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

BOARD OF ADJUSTMENT - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

BOARDINGHOUSE - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

BROADCAST TOWER - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

BUILDABLE AREA - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

BUILDING, DETACHED - A building surrounded by open space on the same lot.

BUILDING, HEIGHT - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

BUILDING LINE - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

BUILDING PERMIT - A document signed by the Authorized official of the City of Montrose as a condition precedent to the commencement of a use or the erection, construction, re- construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the municipal zoning ordinance or an authorized variance there from.

BUILDING, RESIDENTIAL - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

BUS PASSENGER TERMINAL - A place where the transfer of people between modes of transportation takes place.

BUS/TRUCK TERMINAL - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

BUS/TRUCK WASH - Any building or portions thereof used for washing buses and/or trucks.

CAMPGROUND, TRAVEL TRAILER PARKING AREA - Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters.

CAR WASH - Any building or portions thereof used for washing automobiles.

CERTIFICATE OF OCCUPANCY - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

CHANGE OF USE - Substitution of one thing for another specifically regarding use of land or use of a building.

CHURCH - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CITY - Means City of Montrose, South Dakota.

CITY COUNCIL - Means Board of City Council Members, Montrose, South Dakota.

CLINIC - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

CLUB - Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

COMMERCIAL FEED LOT - A feeding operation involving more than two hundred (200) animal units outside an enclosed structure or building within a confined area which lacks vegetation, crops, or other types of ground cover. One animal unit is equivalent to one beef cow, steer, feeder or fat beef animal; 0.7 horse; 0.7 dairy cow; 1.7 swine; 6.7 sheep; 33 hens, cockerels, capons, broilers, or ducks; and 10 geese or turkeys.

COMMERCIAL PARKING LOT/FACILITY - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

COMMISSION - Means City Planning Commission of Montrose, South Dakota.

COMPREHENSIVE PLAN - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

CONTRACTOR'S SHOP AND STORAGE YARD - Use of land or buildings for storage and preparation of materials used by that same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

CONTAMINANT - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

CONVENT AND MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

CREMATORIUM - A building or premise used for the cremation of corpses.

CURB LINE - The outside lines of the pavement or roadway.

DAY CARE - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

DAY CARE, CENTER - Is in a facility used only for providing day care, nursery, or pre- kindergarten services, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per person outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

DECK – An uncovered and open platform built above grade and attached to a principal or accessory building, typically supported by pillars or posts.

(Amended: Ord. No. 2024-005, Effective 05/01/24)

DENSITY - The number of families, individuals, dwelling units, or housing structures per unit of land.

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

DISPLAY - The use of any building, land area, or premises, for the exhibit of goods, materials, merchandise, or vehicles for sale to the public.

DISTILLATION OF PRODUCTS - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

DISTRICT - A part, zone, or geographic area of the City of Montrose within which certain zoning or development regulations apply.

DRIVE-UP SERVICE WINDOW/DEVICE - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

DWELLING - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

DWELLING, ATTACHED - A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, MULTIPLE-FAMILY - A building, or portion thereof, containing three (3) or more dwelling units.

DWELLING, SINGLE FAMILY DETACHED - A dwelling which is designed for and occupied by not more than one family and is surrounded by yards and is not attached to any other dwelling by any means.

DWELLING, SINGLE FAMILY FARM - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

DWELLING, TOWNHOUSE - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

ELECTRICAL SUBSTATION - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

EXISTING ANTENNA SUPPORT STRUCTURE - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

FAMILY - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than four (4) adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

- (1) A person residing with the family for the purpose of adoption;
- (2) Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;

- (3) Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;
- (4) Any persons living with the family at the direction of a court; and
- (5) Twenty four hour supervised living of up to four (4) persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

FARM - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

FARM IMPLEMENT DEALER - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

FARMSTEAD - The area of a farm in which the out buildings sit and are normally protected by a grove(s) and not used for crops or grazing.

FARM STORE/FEED STORE - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

FREESTANDING SIGN (Ground Sign) - A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FRUIT/VEGETABLE CANNING AND PROCESSING - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

GARAGE, PRIVATE - A building or portion of a building in which motor vehicles and limited household goods owned or leased by the occupants of the principal building are stored or kept.

(Amended: Ord. No. 005-2021, Effective 09/16/21)

GARAGE, STAND-ALONE - A private garage located on a lot without another principal building.

(Amended: Ord. No. 005-2021, Effective 09/16/21)

GARDEN CENTER - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

GAS DISPENSING STATION - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 15 feet from the nearest property line.

GENERAL MANUFACTURING - Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

GRADE - The average elevation of the land around a building.

GRAIN TERMINAL - A facility for the storage of agricultural grains.

GREENHOUSE - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUP HOME - A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

GROUNDWATER - Subsurface water that occurs in soils and geologic formations that are fully saturated.

HAZARDOUS MATERIAL -Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

HOME OCCUPATION - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with 8.11.

HOSPITAL - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT – Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

JUNKYARD - Any lot, land, parcel or portion thereof, used for the storage, wrecking, dismantling, salvage, collection, processing, purchase, sale, or exchange of abandoned or discarded vehicles, goods, waste, and scrap materials, including but not limited to: two or more abandoned or inoperable motor vehicles, waste paper, rags, glass, tires, wood, lumber, appliances, machinery, or automotive and mechanical parts. A junkyard does not include operations entirely enclosed within buildings.

KENNEL - Any premise, or portion thereof, where dogs, cats, and other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LANDSCAPED AREA/LIVING GROUND COVER - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

LIGHT MANUFACTURING - Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

LOADING SPACE - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

LOT - A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, which may include one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from an public or private street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three (3) feet to any lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT, CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC. - Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME: A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. For manufactured homes built prior to June 15, 1976, a

label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

MANUFACTURED HOME PARK, LICENSED: A contiguous parcel of land operated as a unit, under the same ownership where two or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City of Montrose.

MAP, OFFICIAL ZONING -The map or maps, which are legally adopted as a part of the zoning ordinance, that delineate the boundaries of the zoning districts, show the location and size of public rights-of-way, public waterways, and the City limit lines.

MINING - The development or extraction of a mineral from its natural occurrence or affected land. The term includes, but is not limited to surface mining and surface operation, in-site mining, the reprocessing of tailing piles, the disposal of refuse from underground mining, and milling and processing located on land described in the application for a mining permit.

MORTUARY - A place for the storage of human bodies prior to their burial or cremation.

MOTEL - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

MOTOR VEHICLE - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go carts, golf carts, boats, snowmobiles, and campers.

MOTOR VEHICLE REPAIR - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

MOTOR VEHICLE, COMMERCIAL - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

MOTOR VEHICLE, INOPERABLE - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

MOTOR VEHICLE, PERSONAUPASSENGER - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

MOTOR VEHICLE, RECREATIONAL - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

MOTOR VEHICLE SALES, DISPLAY, AND RENTAL - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see "JUNKYARD."

MOTOR VEHICLE SERVICE STATION - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 15 feet from the nearest property line.

NEIGHBORHOOD UTILITY FACILITY - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings, facilities and above ground structures that exceed 120 square feet of area) necessary for conducting a service by a government or a public utility.

NONCONFORMING USE - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this title, but

which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

NONSTANDARD USE - The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this title which fail to comply with any or the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premise conforms to the permitted uses within the district as set out in the provisions of this title.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

NURSING HOME - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason by advanced age, chronic illness or infirmity, are unable to care for themselves.

OFFICE BUILDING - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations. Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

PARKING SPACE - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by the City's Traffic Engineering Department.

PERMITTED USES - Any permissive, permitted, special, or conditional use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSONAL SERVICES - Establishments primarily engaged in providing services involving the care of a person or their apparel. Including, but not limited to: laundry or dry cleaning, receiving station; garment services; coin-operated laundries; photographic and art studios; beauty shops; barber shops; shoe repair; reducing salons and health clubs; clothing rental.

PLANNING COMMISSION - The duly designated planning board of the municipality responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

PRINCIPAL BUILDING - A building in which is conducted the primary or predominant use of the lot on which it is located.

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation which makes reproductions involving the use of a printing press and the making of photographic plates.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

PROJECTING SIGN - A sign other than a wall sign which is attached to and projects from a structure or building face.

PROPERTY LINE - See (Lot Line).

PUBLIC SERVICE FACILITY - Government facilities and uses that provide an essential public purpose or service including, but not limited to, a police station, judicial court, fire station, ambulance service, transit or transportation transfer station, community center, public recreation facility, or office, but not including public utility or treatment stations, maintenance facilities, sanitary landfills or facilities for incarcerated persons.

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 120 square feet in area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

RECREATION FACILITY, COMMERCIAL - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

RECYCLABLE MATERIALS - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials or salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RETAIL SERVICES AND TRADE - Establishments engaged in selling products, goods, or, merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale or off-sale alcoholic beverage establishments.

RESTAURANT - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

RIGHT-OF-WAY - A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road,

crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

ROOF SIGN - Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

ROOMING/BOARDING HOUSE - See (Boarding House).

SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL) - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SETBACK/SETBACK LINE - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

SHALLOW/SURFICIAL AQUIFER. An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and un-weathered till, shale, or till and shale.

SHOUSE - A building containing a combination single-family dwelling and personal workshop and/or storage space. Unlike a traditional house that requires its accessory private garage to be subordinate in area, extent or purpose to the dwelling, a shouse is allowed to have the workshop and/or storage space portion of the building be larger than the footprint of the dwelling portion of the building.

(Amended: Ord. No. 005-2021, Effective 09/16/21)

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include signs not exceeding 12 square feet for advertising the sale or lease of real estate, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.

SIGN AREA - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

SIGN FACE (DISPLAY SURFACE) - The entire area of sign on which copy could be placed. See ("Sign Area").

SIGN (OFF PREMISE) - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN (ON PREMISE) - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

SIGN STRUCTURE - Any structure which supports, has supported, or is capable of supporting a sign.

SIGN, WALL - A sign attached to or erected against a wall of a building and projecting no more than twelve (12) inches with the face in a parallel plane to the plane of the building wall.

SLAUGHTERHOUSE - A facility for the slaughtering and processing of animals and the refining of their by-products.

SOLID WASTE TRANSFER FACILITY – A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include and infectious waste incineration facility.

SPACE, MANUFACTURED HOME PARK – An internal lot within a manufactured home park which meets the requirements of the site plan approved as part of the manufactured home park's conditional use permit.

(Amended: Ord. No. 2020-006, Effective 09/04/20)

STABLE - Any premise or part thereon where horses or any equine animal are maintained, boarded, bred, trained or cared for in return for remuneration, or are kept for the purpose of sale.

STOCKYARDS - A facility for the temporary confinement and marketing of animals.

STORAGE FACILITY - A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

STORY - Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under floor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

STREET - A public way which affords the principal means of access to abutting property.

STREET, ARTERIAL - A principal traffic artery, more or less continuous across the City, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

STREET, COLLECTOR - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

STREET, LOCAL - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

STRUCTURAL ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, signs, docks, dams, manufactured homes, and sheds.

TANK FARM - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

TELECOMMUNICATIONS TOWER - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term telecommunications tower

does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

TEMPORARY SIGN - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic, wallboard, or other like materials, and intended to be displayed for a limited period of time.

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

TRAVEL TRAILER - Means any of the following:

- (1) **Travel Trailer**. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
- (2) **Pick-up Coach**. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- (3) **Motor-Home**. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
- (4) **Camping Trailer**. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, CONDITIONAL - A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, or general welfare.

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

WAREHOUSE - A building used primarily for the storage of goods and materials.

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supplyn treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

WHOLESALE MERCHANDISING /WHOLESALE TRADE - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIRELESS COMMUNICATIONS FACILITIES - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a telecommunications tower or antenna support structure.

YARD, FRONT - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

YARD, REAR - A yard extending a full width of the lot between a principal building and the rear lot line.

YARD, REQUIRED FRONT - The required front yard shall extend across the front of a lot between the said property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

YARD LINE. See (Building Line).

YARD, REQUIRED REAR - The required rear yard shall extend across the rear of a lot between the said property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

YARD, REQUIRED - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

YARD, REQUIRED SIDE - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

YARD, SIDE - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

ZONE - A specifically delineated area or district of the City of Montrose within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

16

CANABIS ESTABLISHMENTS

16.01 Intent

In order to minimize the negative effects cannabis establishments have on adjacent land uses, and to promote the public health, safety and general welfare of the city, the City Council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.

Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

16.02 Definitions

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis related terms which are defined by SDCL 34-20G-1.

BLIGHTED AREA: an area characterized by traits such as dilapidation, overcrowding, deterioration, dangerous structures, unsanitary, inadequate infrastructure, nuisance, or other factors which inhibit the growth and development of an area.

CANABIS (or MARIJUANA): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three- tenths of one percent on a dry weight basis.

CANABIS CULTIVATION FACILITY: a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

CANNABIS DISPENSARY: a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS PRODUCTS: any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

CANNABIS PRODUCT MANUFACTURING FACILITY: a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS TESTING FACILITY: a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

CANNABIS ESTABLISHMENT: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

EDUCATIONAL INSTITUTION: any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

NON-LICENSED CANNABIS ESTABLISHMENT: an entity which would otherwise meet the definition of a cannabis establishment, but which is not legally licensed.

16.03 Regulations Relating to Cannabis Cultivation Facilities

No cannabis cultivation facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis cultivation facility shall be considered a permitted use in the following district: I-1: Industrial District.

16.04 Regulations Relating to Cannabis Testing Facilities

No cannabis testing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis testing facility shall be considered a permitted use in the following district: I-1: Industrial District.

16.05 Regulations Relating to Cannabis Product Manufacturing Facilities

No cannabis product manufacturing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis product manufacturing facility shall be considered a permitted use in the following district: I-1: Industrial District.

16.06 Regulations Relating to Cannabis Dispensaries

No cannabis dispensary shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis dispensary shall be considered a conditional use in the following district: B-1: Business District. A cannabis dispensary shall be considered a permitted use in the following district: I-1: Industrial District.

No cannabis dispensary shall operate within one thousand feet (1,000') of an educational institution. Distances shall be measured from the closest point of the property lines but excluding public rights of way. Such buffer distance requirements may be waived via the variance process so long as the zoning district for the proposed location would be allowed if the applicable buffer distance requirement were waived.

16.07 Additional Variance and Conditional Use Factors for Cannabis Establishments

In addition to any other factor which may be properly considered in the grant or denial of a variance or conditional use permit, the following factors shall be relevant for variance and conditional use requests relating to cannabis establishments:

1. That the proposed land use is consistent with the intent of this chapter and will not be contrary to public interest or injurious to nearby properties.
2. That the proposed land use will not cause or contribute to the formation or expansion of blighted area.
3. That all applicable ordinances and regulations will be observed.

16.08 Prohibited Districts for Cannabis Establishments

- A. All types of cannabis establishments are prohibited in the following districts: all R-1: Residential District and CR: Conservation Resource District.
- B. All non-licensed cannabis establishments are prohibited in all zoning districts.

(Amended: Ord. No. 007-2021, Effective 12/23/21)