

Code
Of the
Borough of Montrose

County of Susquehanna
Commonwealth of Pennsylvania

Officials
Of the
Borough of Montrose

Borough Building
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2016

Mayor
John Wilson

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Sean T. Granahan **President**
Todd Chamberlain **Vice President**
Randy Schuster **President Pro Temp**
Craig Reimel
Tom LaMont
Judy Kelly
Jamie Holbert

Secretary
Lillian T. Senko

Solicitor
Marion O'Malley, ESQ.

PREFACE

Like most American municipalities, the Borough of Montrose has gone through a process of legislative change. While only a few simple laws were necessary at the time of the incorporation of the borough in 1824, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed ordinances for the proper function and government of the borough. The recording of local law is an aspect of municipal history and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Ordinances must be more than mere chronological enactments reposing in the pages of old records. They must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Council ordered the following codification of ordinances.

Contents of Code

The various chapters of the Code contain all currently effective ordinances of a general and permanent nature enacted by the Council of the Borough of Montrose. In accordance with recognized codification procedures, certain changes, revisions and additions have been made in existing ordinances of the borough in the course of codification. Such changes and revisions have been authorized by the Council and are noted in the text. These changes, revisions and additions are referred to in the ordinance adopting the Code and are enacted upon adoption of the Code. Sections amended, added or revised are appropriately noted in the text of each chapter.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all borough ordinances of an administrative nature, namely, those dealing with the administration of government, those establishing or regulating municipal departments and those affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other borough ordinances of a regulatory nature. Ordinances in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Ordinances and Arrangement of Chapters

The ordinances are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more ordinances dealing with the same subject, they are combined into a single chapter. Thus, for example, all ordinances dealing with pensions and employee benefits may be found in Part I, Chapter 22, Pensions and Employees Benefits, while all other ordinances pertaining to taxation may be found in Part II, in Chapter 102, Taxation. In such chapters, use of Article designations has preserved the identity of the individual ordinances.

Table of Contents

The Table of Contents details the arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more ordinances have been combined by the editor into a single chapter, titles of the several Articles are listed beneath the chapter title in order to facilitate location of the individual ordinances.

Reserve Chapters

Space has been provided for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters titles “(Reserved)”. In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every ordinance is assigned a number which indicates both the number of the chapter in which the ordinance is located and the location of the section within that chapter. Thus, the first section of Chapter 17 is § 17-1, while the sixth section of Chapter 70 is § 70-6.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Chapter Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific ordinance source from which the chapter was derived, including the ordinance number (if one is assigned) and date of adoption. In the case of chapters containing Articles derived from more than one ordinance, the source of each Article is indicated in the History.

Amendments and Revisions: New Ordinances

Ordinance sections amended, added or revised at the time of this codification are specifically enumerated in chapter Histories with reference to “Ch. 1, General Provisions, Art. I,” where the ordinance adopting the Code and making these revisions will appear after final enactment. Sections so amended, added or revised are also indicated in the text by means of editor’s notes referring to the chapter cited above. The history of other amendments to each chapter appears where pertinent in the text.

Complete new ordinances adopted during the process of codification are indicated in chapter Histories with reference to “Ch. 1, General Provisions, Art. II.” Upon final enactment of such ordinances, an enumeration of all chapters and Articles of the Code comprising such ordinances will be printed in Article II of Chapter 1 along with specific dates of adoption.

General References: Editor’s Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader’s attention to such related chapters. Editor’s notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation do not fall into the categories established for Parts I and II of the Code, but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New ordinances and amendments will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed in accordance with the instruction page which accompanies each supplement.

Acknowledgment

The publication of this Code represents the culmination of much hard work on the part of borough officials, but special acknowledgment should be given to Neil S. Andre, President of Council, and to Robert G. Dean, Esq., Borough Solicitor.

The codification of the ordinances of the Borough of Montrose reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefits of the public."

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PART I

ADMINISTRATIVE LEGISLATION

GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Approval and adoption of Code
- § 1-2 Effect of Code on previous provisions.
- § 1-3 Repeal of ordinances not contained in Code
- § 1-4 Ordinances saved from repeal; matters not affected by repeal
- § 1-5 Inclusion of new legislation prior to adoption of Code.
- § 1-6 Changes and revisions in previously adopted ordinances.
- § 1-7 Interpretation of provisions.
- § 1-8 Titles and headings; editor's notes.
- § 1-9 Filing of copies of Code.
- § 1-10 Amendments to Code.
- § 1-11 Code books to be kept up-to-date.
- § 1-12 Publication of notices.
- § 1-13 Altering or tampering with Code; penalties for violation.
- § 1-14 Severability.
- § 1-15 Effective date.
- § 1-16 Inclusion of ordinance in Code.

ARTICLE II Ordinances Adopted During Codification

[HISTORY: Adopted by the Council of the Borough of Montrose: Art. I, 11-6-78 as Ord. No. 16-78, approved 11-6-78. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 11-6-78 as Ord. No. 16-78, approved 11-6-78]

Be it enacted and ordained by the Council of the Borough of Montrose, County of Susquehanna, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

§ 1-1 Approval and adoption of Code

Pursuant to Section 1008(b) of the Borough Code [53 P.S. § 46008(b)], the codification of a complete body of ordinances for the Borough of Montrose, County of Susquehanna, Commonwealth of Pennsylvania, as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 114, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Borough of Montrose, which shall be known and is hereby designated as the “Code of the Borough of Montrose,” hereinafter referred to as the “Code.”

§ 1-2 Effect of Code on previous provisions

The provisions of this Code, insofar as they are substantively the same as those of ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance. All such provisions are hereby reaffirmed as to their adoption by the Council of the Borough of Montrose, and it is the intention of said Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3 Repeal of ordinances not contained in Code

All ordinances or parts of ordinances of a general and permanent nature, adopted by the Council of the Borough of Montrose and in force on the date of the adoption of this Code, and not contained in the Code, are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided.

§ 1-4 Ordinances saved from repeal; matters not affected by repeal

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving of repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to April 4, 1977.
- B. Any right or liability established, accrued or incurred under any legislative provision of the borough prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability, or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the borough or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the borough, or any lawful contract, obligation or agreement.
- F. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the borough, or other instruments or evidence of the borough's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.

- J. Any ordinance annexing land to the borough.
- K. Any ordinance providing for or requiring the construction or reconstruction of sidewalks, curbs and gutters.
- L. Any ordinance, or part of an ordinance, providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; or providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the borough or setting the bond of any officer or employee.
- P. An ordinance of July 1, 1963, as amended, pertaining to the subdivision of land.
- Q. An ordinance of November 3, 1075, as amended, regulating mobile homes and mobile home parks.
- R. The Borough of Montrose Zoning Ordinance, adopted February 6, 1978 as amended.

§ 1-5 Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature, adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance, are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Code until printed supplements are included.

§ 1-6 Changes and revisions in previously adopted ordinances

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances of the borough for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one (1) or more of said ordinances. It is the intention of the Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. Nomenclature changes. Throughout the Code, the term “Justice of the Peace” (and “Burgess,” where a judicial function is involved) have been changed to “District Justice.” The obsolete title “Town Council” has also been changed to “Borough Council,” and “Burgess” (except where a judicial function is involved) has been changed to “Mayor” in accordance with current statutory provisions.

C. General deletions

- 1) Sections pertaining to severability, effective dates and repeals have been deleted since such provisions are included in this ordinance or are of no further effect.
- 2) Sections assigning titles to various ordinances have been deleted as all ordinances have been given chapter or Article titles as part of the Code.

D. Standardization of penalty provisions. In general, provisions prescribing penalties for violation of ordinances are revised to provide for a fine of not more than three hundred dollars (\$300) or imprisonment for not more than thirty (30) days, or both. Such provisions conform generally to the penalties prescribed for summary offenses in the State Crimes Code. Sections of the Code so revised are as listed below, and such revisions are hereby approved and adopted. Unless otherwise indicated, provisions for a minimum fine are deleted.¹

E. Other substantive changes and revisions. In addition to the changes and revisions described above, the following changes and revisions of a substantive nature are hereby made to various ordinances included in the Code. These changes are made to bring provisions into conformity with desired policies of the Council, and it is the intent of the Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.²

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, or ordinance or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance or regulation shall control.

¹ Editor's Note: Pursuant to § 1-6D, the following penalty sections were amended: §§ 57-2,76-4,79-2,91-20,91-44 and 102-11.

² Editor's Note: Pursuant to § 1-6E, the following changes were made. A complete description of each change is on file in the office of the Borough Secretary. The following sections were added or amended: §§ 22-6, 22-8, 22-9, 47-7 and 47-11A. The following chapter was amended in its entirety: Ch.31.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and Article titles, headings and titles of sections and other divisions in the Code, or in supplements made to the Code, are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the ordinances.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the ordinance.

§ 1-9. Filing of copies of Code.

Three (3) copies of the Code in post-bound volumes shall be filed with the ordinance book in the office of the Borough Secretary and shall remain there for use and examination by the public. Upon adoption, such copies shall be certified to by the Borough Secretary, as provided by law, and such certified copies shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10 Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code, as amendments and supplements thereto.

§1-11 Code books to be kept up-to-date.

It shall be the duty of the Borough Secretary, or someone authorized and directed by him or her, to keep up-to-date the certified copies of the book containing the Code required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all ordinances adopted by the Council subsequent to the effective date of this codification which the Council shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§1-12 Publication of notices.

The Borough Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction and of the adoption of the Code in a newspaper of general circulation in the borough. This enactment and application of this ordinance, coupled with the publication of the notices of introduction and adoption, as required by law, and the availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13 Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code, or any part or portion thereof, in any manner whatsoever, which will cause the law of the borough to be misrepresented thereby. Anyone violating this section of this ordinance shall be deemed guilty of a summary offense, punishable by a fine of not more than three hundred dollars (\$300) or by imprisonment for not more than thirty (30) days, or both.

§ 1-14 Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, Article or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation and application to the clause, sentence, subsection, section, Article or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the Council that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, Article or part thereof had not been included therein.

§ 1-15 Effective date.

All provisions of this ordinance and of the Code shall be in force and effect on and after November 6, 1978.

§ 1-16 Inclusion of ordinance in Code.

This ordinance shall be included in the Code as Chapter 1, General Provisions, Article I.

GENERAL PROVISIONS

ARTICLE II Ordinances Adopted During Codification

[During the process of codification, certain complete new ordinances were approved by the Council for inclusion in the Code of the Borough of Montrose. Such new ordinances are noted in the histories of individual chapters as “Adopted.... During codification; see Ch. 1, General Provisions, Article II.” During the course of normal supplementation, specific dates of adoption will be inserted where pertinent in the various chapters.

The enumeration appearing below lists each chapter affected by any such legislation adopted during codification.]

Chapter	Ord. No	Adoption Date	Approval Date
Ch. 26, Police Department	12-78	11-6-78	11-6-78
Ch.70, Littering and Handbill Distribution	13-78	11-6-78	11-6-78
Ch. 82, Peddling and Soliciting	14-78	11-6-78	11-6-78
Ch. 96, Streets and Sidewalks	15-78	11-6-78	11-6-78

ORDINANCE ADOPTED AFTER CODIFICATION

Ch. 76, Nuisances, Barking Dogs	1996-01	5-6-96	5-6-96
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Chapter 4

AUDITOR

§ 4-1. Employment of independent accountant.

[HISTORY: Adopted by the Council of the Borough of Montrose 3-7-77, approved 3-7-77. Amendments noted where applicable.]

§ 4-1. Employment of independent accountant.

Hereafter the Borough of Montrose shall employ an independent accountant to audit the borough accounts annually and to file a copy of the report with the Secretary of the borough, with the Clerk of the Court of Common Pleas of the county, with the Pennsylvania Department of Transportation and the Department of Community Affairs.

Chapter 17

MUNICIPAL AUTHORITY

- § 17-1. Intent to organize authority.
- § 17-2. Articles of Incorporation.
- § 17-3. Notice of organization.
- § 17-4. Filing of Articles; effectuating of incorporation.
- § 17-5. Appointment of first members
- § 17-6. Statement of necessity.

[HISTORY: Adopted by the Council of the Borough of Montrose 4-6-59, approved 4-6-59. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers – See Ch. 91.

§ 17-1. Intent to organize authority.

The Council of this borough hereby signifies its intention and desire to organize an authority, under the provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania of May 2, 1945, P.L. 382, known as the “Municipality Authorities Act of 1945,” as amended and supplemented (the Authorities Act),

¹ for the purpose of exercising any and all powers conferred by the Authorities Act.

§ 17-2. Articles of Incorporation.

The Mayor, President of Council and Secretary, respectively, of this borough, hereby are authorized and directed to execute, in behalf of the borough, Articles of Incorporation for such authority in substantially the following form

¹Editor’s Note: See 53 P.S. §

ARTICLES OF INCORPORATION

TO: THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA

In compliance with requirements of the Act of the General Assembly of the Commonwealth of Pennsylvania of May 2, 1945, P.L. 382, known as the "Municipality Authorities Act of 1945," as amended and supplemented, and pursuant to an ordinance enacted by the municipal authorities of the Borough of Montrose, Susquehanna County, Pennsylvania, expressing the intention and desire of the municipal authorities of said municipality to organize a municipality authority under said Act, the municipality hereby does certify:

1. The name of the Authority is Montrose Municipal Authority.
2. The Authority is formed under provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania of May 2, 1945, P.L. 382, known as the "Municipality Authorities Act of 1945," as amended and supplemented.
3. No other authority has been organized under said Municipality Authorities Act of 1945, as amended and supplemented, or under the Act of June 28, 1935, P.L. 463, as amended and supplemented,
4. ¹ and is in existence in or for the incorporating municipality, except that the Montrose Borough Authority has been incorporated by the Borough of Montrose, Susquehanna County, Pennsylvania, by Articles of Incorporation, approved July 16, 1935, P.L. 463, as amended and supplemented, of the Commonwealth of Pennsylvania.
5. The name of the incorporating municipality is the Borough of Montrose, Susquehanna County, Pennsylvania.
6. The names and addresses of the municipal authorities of said incorporating municipality are.²
7. The names, addresses and terms of office of the first members of the Board of the Authority, each of whom is a resident and citizen of said incorporating municipality, are as follows.³

IN WITNESS, WHEREOF, the Borough of Montrose, Susquehanna County, Pennsylvania, has caused these Articles of Incorporation to be executed by its Burgess and its President of Council and to be attested by its Secretary and its official seal to be affixed hereunto this day of, 1959.

BOROUGH OF MONTROSE,
Susquehanna County, Pennsylvania

² Editor's Note: The Act of June 28, 1935, P.L. 463, was the act which immediately preceded the Municipality Authorities Act of 1945.

³ Editor's Note: The names and addresses of the Burgess and Councilmen in office at the time of the signing of the Articles of Incorporation have been omitted as they are obsolete. The original ordinance, on record in the Borough Secretary's office, contains the complete listing of names and addresses.

⁴ Editor's Note: The listing of names, addresses and terms of office of the first members of the Board of the Authority has been omitted as it is obsolete. The original ordinance, on record in the Borough Secretary's office, contains the complete listing.

§ 17-3. Notice of organization

The Mayor, President of Council and Secretary, respectively, of this borough hereby are authorized and directed to cause notice of the substance of this chapter, including the substance of the foregoing Articles of Incorporation and of the proposed filing of such Articles of Incorporation, to be published as required by the Authorities Act.

§ 17-4. Filing of Articles; effectuating of incorporation

The Mayor, President of Council and Secretary, respectively, of this borough hereby are authorized and directed to cause such Articles of Incorporation, together with necessary proof of publication, to be filed with the Secretary of the Commonwealth of Pennsylvania and to do all other acts and things necessary or appropriate to effect the incorporation of such Authority, including payment of any filing fees necessary in connection therewith.

§ 17-5. Appointment of first members

The following named persons shall be and they hereby are appointed as first members of the Board of the Authority for the following terms of office.¹

§ 17-6. Statement of necessity

The enactment of this chapter is deemed necessary for the benefit and preservation of the public health, peace, comfort and general welfare and will increase the prosperity of the citizens of this borough.

OFFICERS AND EMPLOYEES

⁵ Editor's Note: The names and addresses of the Burgess and Councilmen in office at the time of the signing of the Articles of Incorporation have been omitted as they are obsolete. The original ordinance, on record in the Borough Secretary's office, contains the complete listing of names and addresses.

Chapter 19

OFFICERS AND EMPLOYEES

ARTICLE I

Manager

- § 19.1. Creation of office
- § 19.2. Appointment; removal
- § 19.3. Supplemental conditions of employment
- § 19.4. Effect of other agreements; intergovernmental cooperation
- § 19.5. Qualifications
- § 19.6. Bond
- § 19.7. Compensation
- § 19.8. Powers and duties
- § 19.9. Delegation of powers and duties by Mayor
- § 19.10. Disability or absence

ARTICLE II

Business Manager

- § 19.11. Establishment of position
- § 19.12. Responsibilities, powers and duties

ARTICLE III

Borough Clerk

- § 19.13. Establishment of position
- § 19.14. Duties

[HISTORY: Adopted by the Council of the Borough of Montrose: Art. I, 11-7-77, approved 11-7-77; Art. II, 3/20/78, approved 3-20-78; Art. III, 3-20-78, approved 3-20-78. Amendments noted where applicable.]

GENERAL REFERENCES

Pensions and employee benefits – See Ch. 22
Salaries and compensation – See Ch. 31

ARTICLE I
Manager
[Adopted 11-7-77, approved 11-7-77]

§ 19.1. Creation of office

The office of Borough Manager is hereby created by the Borough Council of the Borough of Montrose, hereinafter referred to as Council.

§ 19.2. Appointment; removal

The Manager shall be appointed by a majority of all the members of Council, and he shall serve being subject to removal by Council at any time by a vote of the majority of all the members of Council, provided that Council shall furnish the Manager notice of such removal at least thirty (30) days prior to the effective date of such removal. During the interim, Council may suspend the Manager from duty but shall continue his compensation.

§ 19.3. Supplemental conditions of employment

Supplemental conditions of employment may be stipulated by Council prior to the employment of the Manager and thereafter with the consent of the Manager.

§ 19.4. Effect of other agreements; intergovernmental cooperation

The validity of borough agreements and authority¹ agreements and amendments to the same pertaining to all aspects of the office of a Borough Manager and of a Manager is hereby recognized and permitted and shall have precedence over provisions of this Article and its amendments. The validity of a duly designated intergovernmental committee for purposes of coordinating, planning and providing recommendations to Council is hereby permitted.

§ 19.5. Qualifications

The Manager shall be chosen solely on the basis of executive and administrative abilities with special reference to actual experience in or knowledge of accepted practices in respect to the duties of the office as herein outlined. The Manager need not be a resident of the borough or of the Commonwealth of Pennsylvania at the time of appointment, but during the tenure of office may reside outside the borough only with the approval of Council.

¹ Editor's Note: For creation of the Montrose Municipal Authority, see Ch. 17, Municipal Authority.

§ 19.6. Bond

Before entering upon his duties, the Manager shall give a bond to the borough with a bonding company as surety, to be approved by Council, in such amount as Council shall direct, conditioned upon the faithful performance of his duties. The premium shall be paid by the borough.

§ 19.7. Compensation

The salary of the Manager shall be fixed from time to time by Council.¹

§ 19.8. Powers and duties

- A. The Manager shall be the business manager of the borough and shall be responsible to Council as a whole for the proper and efficient administration of his duties. His powers and duties shall relate to the general management of all borough business not expressly imposed or conferred by statute upon other borough officers.
- B. Subject to recall by Council, the powers and duties of the Borough Manager shall include the following:
 - 1) He shall serve as Zoning Officer.²
 - 2) He shall serve as Permit Officer
 - 3) He shall serve as Street Excavation Inspector³
 - 4) He shall serve as Code Enforcement Officer⁴
 - 5) He shall assist in the preparation of bid specifications and in the analysis of bids for acceptability.
 - 6) He shall propose policies, procedures and roles pertaining to the effective administration of borough government.
 - 7) He shall monitor personnel functions to determine if these functions are in accordance with the desired objectives of Council.
 - 8) He shall develop and implement, with Council's approval, a viable public relations program.
 - 9) He shall provide guidance to employees and officials in the accomplishment of the objectives of their roles.
 - 10) He shall assist municipal officials and employees with special technical tasks, projects and problems.
 - 11) He shall propose and assist in the securing of financial aid in the form of grants and loans from other governmental agencies.
 - 12) He shall supply subjects and data pertinent to the preparation of the agenda for each meeting of Council.

² Editor's Note: See also Ch. 31, Salaries and Compensation

³ Editor's Note: For provisions pertaining to the powers and duties of the Zoning Officer, See Ch.112, Zoning

⁴ Editor's Note: See Ch. 96, Streets and Sidewalks, Art. VI

⁵ Editor's Note: See Ch. 47, Code Enforcement

- 13) He shall keep Council informed as to the conduct of borough affairs, submit periodic reports on the condition of the borough finances and such other reports as Council requests and shall make such recommendations to Council as he deems advisable.
- 14) He shall, upon request of Council, submit to Council, as soon as possible after the close of the fiscal year, a complete report of the finances and/or the administrative activities of the borough for the preceding year.
- 15) He shall see that the provisions of all franchises, leases, permits and privileges granted by the borough are observed.
- 16) He shall assist Council in the letting of contracts in due form of law, and he shall supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed by statute upon some other borough officer.
- 17) He shall hold such other municipal offices or head one (1) or more of the municipal departments as Council may from time to time direct.
- 18) He shall attend all meetings of Council and may attend meetings of its committees and work groups with the right to take part in any discussion.
- 19) He shall, upon receipt of any complaint regarding borough services, investigate and properly dispose of such complaint and shall report thereof to Council.
- 20) He shall prepare and submit a proposed annual budget and capital program to Council.
- 21) He shall have the authority to hire and dismiss borough employees according to the provisions of the established borough personnel policy.

§ 19.9. Delegation of powers and duties by the Mayor

The Mayor is hereby authorized to delegate to the Borough Manager, subject to the approval of Council and to recall by written notification at any time, any of his nonlegislative or nonjudicial powers and duties.

§ 19.10. Disability or absence

If the Manager becomes incapacitated or needs to be absent from duty, he shall promptly notify the President of Council.

ARTICLE II Business Manager [Adopted 3-20-78, approved 3-20-78]

§ 19.11. Establishment of position

The position of part-time Borough Business Manager is hereby established by the Montrose Borough Council.

§ 19.12. Responsibilities, powers and duties

The Borough Business Manager will oversee the day-to-day coordination of borough operations.

- A. The Borough Business Manager will have the following specific responsibilities:
- 1) Administration.
 - a. Supervise the Borough Clerk, assigning work as needed and efficiency dictate.
 - b. Prepare or assist in the preparation of all periodic reports required by Council, including payroll, taxes and state and federal forms.
 - c. Provide guidelines to officials and employees in the accomplishment of the objectives of their roles.
 - d. Assist the various departments in establishing procedures for their most efficient functioning; oversee the operation of the Street Department, and serve as a point of contact between the head of the Street Department and the Borough Council.
 - e. Assist borough officials and employees with special technical tasks, projects and problems.
 - f. Monitor personnel functions to determine their compliance with the stated objectives of Council.
 - g. Maintain an activity log to ensure a smooth transition of the responsibilities of the position should it become vacant.
 - 2) Financial
 - a. Assist in the preparation of the annual budget and prepare and submit to Council a proposed annual budget and a proposed capital program.
 - b. Assist in the preparation of bid specifications and in the analysis of bids for acceptability.
 - c. Assist Council in the letting of contracts, in due form of law, and supervise the performance and faithful execution of same, except insofar as such duties are expressly imposed by statute upon some other borough officer.
 - d. See that the provisions of all franchises, leases, permits and privileges granted by the borough are observed.
 - e. Coordinate all purchasing procedures in agreement with Council policy.
 - f. Upon request of Council, submit, as soon as possible after the close of the fiscal year, a complete report of the financial and/or administrative activities of the borough for the preceding year.
 - 3) General
 - a. Keep Council informed as to the conduct of borough affairs; submit periodic reports on the condition of the borough finances and such other reports as Council may request; and make such recommendations to Council as he deems advisable.
 - b. Supply subjects and data pertinent to the preparation of an agenda for each meeting of Council.

- c. Attend all meetings of Council, and may attend meetings of Council committees and work groups with the right to take part in any discussion.
 - d. Propose policy, procedures and roles pertaining to the effective administration of borough government.
 - e. Develop and implement, with Council's approval, a borough public relations program.
 - f. Upon receipt of any complaint regarding borough services, investigate and properly dispose of such complaints, reporting each complaint and action to Council.
 - g. Hold such other borough offices as the Council may from time to time direct.
 - h. Accept the delegation of any nonlegislative and nonjudicial duties of the Mayor, subject to the approval of Council and subject also to written recall.
- B. All duties and procedures associated with the position of Borough Business Manager are subject to Councils review and revision.

ARTICLE III

Borough Clerk

[Adopted 3-20-78, approved 3-20-78]

§ 19.13. Establishment of position

The position of full-time Borough Clerk is hereby established by the Montrose Borough Council.

§ 19.14. Duties

- A. The Borough Clerk will perform the daily routine tasks required in the conduct of borough business.
- B. The Borough Clerk will work under the supervision of a Borough Business Manager and will have the following specific duties:
- 1) Perform all necessary day-to-day office routines required of the position.
 - 2) Perform all clerical and secretarial duties assigned by the Business Manager, which may include the taking of minutes of official Borough Council meetings and the transcription of those minutes.
 - 3) Be responsible for the preparation of the weekly payroll and its related reports, and maintain records related to the employee benefit program.
 - 4) Maintain all financial records as may be assigned by the Business Manager.
 - 5) Maintain all borough records necessary for daily and long-term borough operations.
 - 6) Assist the Business Manager in providing effective direction to borough operations.
 - 7) Hold such other borough offices as Council may from time to time direct.
- C. All duties and procedures associated with the position of Borough Clerk are subject to Council review, revision and direction.

PENSION AND EMPLOYEE BENEFITS

Chapter 22

PENSIONS AND EMPLOYEE BENEFITS

ARTICLE I

Police Pension Fund

- § 22.1. Establishment; source of funds
- § 22.2. Pension Fund Committee
- § 22.3. Membership qualifications
- § 22.4. Treasurer; protection and investment of assets
- § 22.5. Inspection and audit of records
- § 22.6. Eligible retirement age
- § 22.7. Refunds
- § 22.8. Retirement benefit; service increment
- § 22.9. Disability benefits
- § 22.10. Benefit payments not subject to assignment or transfer
- § 22.11. Transfer of assets and liabilities of prior funds
- § 22.12. Effect of statutory provisions
- § 22.13. Provision of pensions by purchase of annuity contracts
- § 22.14. Approval of constitution and bylaws

ARTICLE II

Social Security

- § 22.15. Statement of findings
- § 22.16. Statutory authorization

§ 22.17. Payroll deductions and payments to fund

§ 22.18. Appropriation; execution of plan and agreement

[HISTORY: Adopted by the Council of the Borough of Montrose: Art. I, 6-6-66, approved 6-6-66; Art. II, 10-3-55, approved 10-3-55. Sections 22-6, 22-8 and 22-9 amended at time of adoption of Code; see Ch. 1 General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Police Department – See Ch. 26

Salaries and compensation – See Ch. 31

ARTICLE I

Police Pension Fund

[Adopted 6-6-66, approved 6-6-66]

§ 22-1. Establishment; source of funds

Under the provisions of the Act of May 29, 1956, as amended,¹ and other statutes now or hereafter pertaining or applicable thereto, and any ordinances that may be lawfully enacted for the purposes hereof, there is hereby established a Police Pension Fund hereinafter referred to as the fund. The fund shall be derived from the following sources:

- A. All members of the Police Force regularly appointed by the Borough of Montrose shall pay into the fund not less than five percent (5%) nor more than eight percent (8%) of their monthly compensation. Where positions covered by the fund are included in an agreement under the Federal Social Security Act,² members shall pay into the fund, monthly, an amount equal to not less than two percent (2%) of that portion of their monthly compensation on which social security allowances are payable and five percent (5%) of any monthly compensation in excess of that on which social security allowances are payable. Subject to the foregoing limitations and requirements, the amount which members of the Police Force shall pay into the fund shall be determined from time to time by resolution of the Borough Council.
- B. Any sum or sums paid to the borough and inuring to the fund from any official or Department of the Commonwealth of Pennsylvania under present or future law pertinent thereto.
- C. Any money or property, real, personal or mixed, which the borough may by gift, grant, devise or bequest receive for the benefit of the fund.

¹ Editor's Note: See 53 P.S. § 767 et seq.

² Editor's Note: See Art. II of this chapter.

- D. Any and all contributions that may be lawfully made by the borough to the fund.
- E. Receipts from investments of said fund.

§ 22-2. Pension Fund Committee

The care, management, investment, administration, distribution and disposal of the fund shall be vested in a committee known as the “Pension Fund Committee” appointed by the President of the Council. Such Committee shall consist of two (2) members of the Council and the Solicitor of the borough. The members of the Committee shall serve without compensation, and the administration of the fund and the acts of the Committee shall be governed by the provisions of this chapter and any other applicable ordinance of the borough.

§ 22-3. Membership qualifications

All regular salaried officers and members of the Police Force shall be members of the fund and such membership shall be compulsory for all such officers and members of the Police Force. Upon becoming a member of the fund, an officer and member of the regular Police Force shall, in writing, authorize the Borough Treasurer to deduct the established percent from his pay of his contribution into the fund and shall designate a beneficiary or beneficiaries to whom payments shall be made in the event of such member’s death while a member of the Police Force and the fund, and he shall stipulate and agree that he shall be bound by the provision of the law pertaining thereto and of this ordinance and any future ordinances and statutes pertaining thereto.

§ 22-4. Treasurer; protection and investment of assets

The Borough Treasurer shall serve as Treasurer of the fund. The assets of the fund shall be separately protected by a surety bond to the borough. Any part of the fund may be invested in the same manner and in the same kinds of securities as sinking funds of the borough may, by law, be invested.

§ 22-5. Eligible retirement age¹

Any officer or member of the Police Force of the Borough of Montrose who shall have served for a total period of twenty-five (25) years and shall have reached the age of fifty-five (55) shall be entitled to be honorably discharged and retired on a pension; provided, however, that there shall be compulsory retirement for all policemen who have reached the age of sixty-five (65) years. Persons so retired shall be subject to service as police reserve until they have become unfitted for such service. While on duty as police reserve, they shall be paid as wages, in addition to their regular pension, such sums as Council may in each case determine.

³ Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 24

PLANNING COMMISSION

§ 24-1. Creation

§ 24-2. Number of members; terms

[HISTORY: Adopted by the Council of the Borough of Montrose 10-6-75, approved 10-6-75. Amendments noted where applicable.]

GENERAL REFERENCES**Subdivision and land development – See Ch. 98****Zoning – See Ch. 112****§ 24-1. Creation**

There is hereby created a Borough Planning Commission for the Borough of Montrose under the authority of Pennsylvania Municipalities Planning Code.¹

§ 24-2. Number of members; terms

Said Planning Commission shall consist of seven (7) members whose terms shall be for four (4) years or until their successors are appointed, except that the terms of the members first appointed shall be so fixed that not more than two (2) shall be reappointed in any calendar year.²

¹Editor's Note: Act 247 of 1968; see 53 P.S. § 10101 et seq.

²Editor's Note: Original Sections 3 and 4, which immediately followed this section and provided for continuation in office and the five (5) members of the existing Commission and the appointment of two (2) new members, were deleted during codification as being of no further effect.

Chapter 26

POLICE DEPARTMENT

§ 26-1. Department created

§ 26-2. Legislative authority

§ 26-3. Direction of Department; composition

[HISTORY: Adopted by the Council of the Borough of Montrose during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Police Pension Fund – See Ch. 22, Art. I.

Civil service rules and regulations – See Ch. A115.

§ 26-1. Department created

The Council of the Borough of Montrose hereby creates a Police Department of such size and number as the Council of the Borough of Montrose, in its discretion, deems appropriate to enforce the laws and ordinances of the Borough of Montrose as well as those for the Commonwealth of Pennsylvania and the United States of America.

§ 26-2. Legislative authority

Said Police Department shall be established pursuant to the laws of the Commonwealth of Pennsylvania, including but not limited to civil service rules and regulations.¹

§ 26-3. Direction of Department; composition.

Said Police Department shall be directed by the Mayor pursuant to the Borough Code² and shall consist of officers of such rank as shall be deemed appropriate by the Council of the Borough of Montrose.

¹Editor's Note: See Ch. A115, Civil Service Rules and Regulations.

² Editor's Note: See in particular Sections 1121 through 1127 of the Borough Code, Act of 1966, Feb. 1, P.L. (1965)....., No 581 (53 P.S. §§ 46121 – 46127).

Chapter 29

RECREATION BOARD

§ 29-1. Establishment

§ 29-2. Membership; appointments

§ 29-3. Compensation

§ 29-4. Officers; rules and regulations

§ 29-5. Powers and duties

§ 29-6. Annual report

[HISTORY: Adopted by the Council of the Borough of Montrose 9-10-73, approved 9-10-73. Amendments noted where applicable.]

GENERAL REFERENCES

Parks – See Ch. 70

§ 29-1. Establishment

A Recreation Board for the Borough of Montrose is hereby established to be known as the “Montrose Recreation Board.”

§ 29-2. Membership; appointments

The said Montrose Recreation Board shall consist of a minimum of five (5) and a maximum of seven (7) members, all of whom may be members of the Montrose Recreation Committee and two (2) of whom may be members of the School Board of the school district in which the borough is located. All members shall be appointed by the Borough Council and shall serve five (5) years. The terms of the members shall be staggered in such a manner that at least one (1) expires annually. Vacancies in such Board, occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

§ 29-3. Compensation

The members of the Montrose Recreation Board shall serve without compensation.

§ 29-4. Officers; rules and regulations

The members of the Montrose Recreation Board, established by this chapter, shall elect their own Chairman and Secretary and select all other necessary officers to serve for a period of one (1) year. Such Board shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.

§ 29-5. Powers and duties

The said Montrose Recreation Board shall have the power to equip, operate and maintain all municipal recreational places within the Borough of Montrose or in any adjacent township, city or other borough if the other municipality shall, by ordinance, signify its consent thereto and shall have such other powers and shall perform such other duties as are now or may hereafter be established for the control, operation, management and maintenance of a Recreation Board or by any and all Acts of Assembly of the Commonwealth of Pennsylvania with relation thereto. Said Board may, with the consent and approval of the Borough Council, purchase equipment for municipal recreational centers within the Borough of Montrose and employ such person or persons as may be necessary for the administration, operation and maintenance of such recreational centers as is within the jurisdiction of the Recreation Board and shall be provided for through proper appropriation by the Borough Council. The Recreation Board shall have powers as stated heretofore in any adjacent municipality so long as all expenses relative thereto shall be borne by the respective municipalities in such proportion as may be agreed upon by the municipality thereof.

§ 29-6. Annual report

The Montrose Recreation Board shall make an annual report of its proceedings and expenditures to the Borough Council.

Chapter 31

SALARIES AND COMPENSATION¹

§ 31-1. Compensation of Councilmen

§ 31-2. Salary of Mayor

[HISTORY: Adopted by the Council of the Borough of Montrose 5-6-74, approved 5-6-74; amended in its entirety at time of adoption of Code; see Ch.1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Pensions and employee benefits – See Ch.22

§31-1. Compensation of Councilmen

Councilmen in the Borough of Montrose shall receive compensation in the sum of fifty dollars (\$50.) a month.

§ 31-2. Salary of Mayor

The Mayor of the Borough of Montrose shall be paid an annual salary of one thousand eight hundred seventy-five dollars (\$1,875.00) a year. **[Adopted by the Council of the Borough of Montrose 1-16-12, approved 1-16-12 by Ordinance]**

¹ Editor's Note: The salaries and compensation of officers and employees generally of the Borough of Montrose are fixed from time to time by resolution of the Borough Council. A copy of current salary and compensation provisions is on file in the office of the Borough Secretary for examination by the public during regular office hours.

PART II

GENERAL LEGISLATION

Chapter 38

ALCOHOLIC BEVERAGES

§ 38-1. Definitions

§ 38-2. Consumption on public property

§ 38-3. Possession on public property

§ 38-4. Exceptions

§ 38-5. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 6-2-86 as Ord. No. 86-3,¹ approved 6-2-86. Amendments noted where applicable.]

§ 38-1. Definitions

Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

ALCOHOLIC BEVERAGES – Any spirits, wine, beer, ale or other liquid containing more than one-half percent ($\frac{1}{2}\%$) of alcohol by volume, which is fit for beverage purposes.

CONTAINER – Any bottle, can or other vessel in which alcoholic beverages are contained.

§ 38-2. Consumption on public property

No person shall consume any alcoholic beverage in any quantity upon any street, avenue, alley sidewalk, stairway, thoroughfare or other public property within the Borough of Montrose, Susquehanna County, Pennsylvania, nor shall any person consume any alcoholic beverage within five (5) feet of any public way or thoroughfare while on a private stairway, doorway or other private property open to public view, without the express or implied permission of the owner, his agent or other party in lawful possession thereof.

¹ Editor's Note: This ordinance also provided that it shall become effective 6-15-86.

§ 38-3. Possession on public property

No person shall possess any container of alcoholic beverage, whether wrapped or unwrapped, which has been opened or on which the seal has been broken in any manner on any public street, avenue, alley, thoroughfare or other public property within the Borough of Montrose, Susquehanna County, Pennsylvania, nor shall any person possess any container or alcoholic beverage within five (5) feet of any public way or thoroughfare while on a private stairway, doorway or other private property open to public view, without the express or implied permission of the owner, his agent or other person in lawful possession thereof.

§ 38-4. Exceptions

The above shall apply; provided, however, that the provisions of §§ 38-2 and 38-3 above shall not apply to interior portions of any private dwelling, habitat or building, nor to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in § 38-1 hereof; and provided further that the provisions of said §§ 38-2 and 38-3 above shall not apply to premises duly licensed by the Pennsylvania Liquor Control Board and to persons then and there patrons of said licensee.

§ 38-5. Violations and penalties

Whosoever violates any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and/or be imprisoned for a period not to exceed ninety (90) days.

BUILDING CONSTRUCTION

Chapter 43

BUILDING CONSTRUCTION

ARTICLE I

Adoption of BOCA Code

§ 43-1. Title

§ 43-2. Adoption of standards by reference

§ 43-3. Administration and enforcement

§ 43-4. Modifications in standards

§ 43-5. Conflicts with state laws

ARTICLE II

Adoption of Pennsylvania Code Building Regulations for Protection from Fire and Panic

§ 43-6

[HISTORY: Adopted by the Council of the Borough of Montrose; Art. I, 5-5-75; approved 5-5-75, amended in its entirety 5-4-87 by Ord. No. 87-5, approved 5-4-87; Art. II, 3-16-87 as Ord. No. 87-4, approved 3-16-87. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Code enforcement – See Ch. 47

Electrical standards – See Ch. 53

Fire Prevention – See Ch. 59

Plumbing – See Ch. 84

Sewers – See Ch. 91

Construction of curbs, gutters, sidewalks and driveways – See Ch. 96, Arts. I and II

Obstruction of streets or sidewalks with building materials – See Ch. 96, Art. IV

Street excavations – See Ch. 96, Art. VI

Subdivision and land development – See Ch. 98

Zoning – See Ch. 112

ARTICLE I
Adoption of BOCA Code
[Adopted 5-5-75, approved 5-5-75; amended in its
Entirety 5-4-87 by Ord. No. 87-5, approved 5-4-87

§ 43-1. Title

The Article may be cited and referred to as the “Montrose Building Code.”

§ 43-2. Adoption of standards by reference

A certain document, two (2) copies of which are on file with the Secretary of the Borough of Montrose, being marked and designated as the “BOCA National Building Code/1987, 10th Edition,” as published by the Building Officials and Code Administrators International, Inc., is hereby adopted as the Building Code of the Borough of Montrose in the County of Susquehanna in the Commonwealth of Pennsylvania for the control of buildings and structures, as herein provided; and each and all of the regulations, provisions, conditions and terms of the BOCA National Building Code/1987, 10th Edition, are hereby referred to, adopted and made a part hereof as it fully set out in this Article with the modifications as prescribed in § 43-4 of this chapter.

§ 43-3. Administration and enforcement

The administration and enforcement of the Article shall be carried out as prescribed by the Code Enforcement Ordinance and the amendments thereto.¹ Said Code Enforcement Ordinance provides for certain powers and duties of a Code Enforcement Official and for procedures relative to applications, fees, inspections, appeals, penalties and other matters.

§ 43-4. Modifications in standards

A. Insertions

- 1) The name “Borough of Montrose” shall be inserted whenever the name of the municipality is indicated in Section 100.1, page 1, second line.

B. Deletions The following Articles and sections are deleted:

- 1) Article 1, Administration and Enforcement, and all sections and subsections having reference to administration or endorsement.
- 2) Article 27, Electric Wiring, Equipment and Systems.
- 3) Article 28, Plumbing Systems

C. Revisions

- 1) With respect to Sections 109.0, Department of Building Inspection, “Department of Building Inspection” shall be the “Office of Code Enforcement.”

¹ Editor’s Note: See Ch. 47, Code Enforcement.

§ 43-5. Conflicts with state law

Whenever there is a conflict between any local ordinances and state laws, the more stringent shall prevail.

ARTICLE II
Adoption of Pennsylvania Code Building
Regulations for Protection From Fire and Panic
[Adopted 3-16-87 as Ord. No. 87-4, approved 3-16-87]

§ 43-6. Adoption of standards by reference

The Pennsylvania Code Building Regulations for Protection from Fire and Panic, effective 1984, are adopted for the Borough of Montrose.

BUILDING PERMITS

Chapter 44

BUILDING PERMITS

[The Borough Council of the Borough of Montrose adopted ord. No. 84-2 on 6-2-84, which ordinance required all persons to obtain a building permit for any construction and development and set forth minimum requirements for new construction and development within areas of the borough which are subject to flooding. A complete copy of this ordinance is on file in the office of the Borough Secretary and may be examined there during regular office hours.]

GENERAL REFERENCES

Building construction – See Ch. 43

Zoning – See Ch. 112

CODE ENFORCEMENT

Chapter 47

CODE ENFORCEMENT

**ARTICLE I
General Provisions**

- § 47-1. Title and scope
- § 47-2. Intent; construal of provisions
- § 47-3. Applicability of provisions; conformance required
- § 47-4. Conflicting provisions
- § 47-5. Continuation of uses
- § 47-6. Maintenance requirements; responsibility of owners
- § 47-7. Definitions

**ARTICLE II
Office of Code Enforcement**

- § 47-8. Creation of Office and of executive official
- § 47-9. Appointment of Code Enforcement Official; qualifications
- § 47-10. Employees
- § 47-11. Deputies; qualifications
- § 47-12. Restrictions on employees
- § 47-13. Relief from personal responsibility
- § 47-14. Records

**ARTICLE III
Duties and Powers of Code Enforcement Official**

- § 47-15. General
- § 47-16. Duties and powers with respect to property maintenance and zoning
- § 47-17. Applications and permits

CODE ENFORCEMENT

§ 47-18. Notices and orders

§ 47-19. Inspections

§ 47-20. Research and investigations

§ 47-21. Records

§ 47-22. Annual report

§ 47-23. Promulgation of rules

§ 47-24. Variances and modifications

ARTICLE IV Inspections

§ 47-25. Preliminary inspection

§ 47-26. Final inspection

§ 47-27. Inspection services

§ 47-28. Plant inspection

§ 47-29. Inspection reports

§ 47-30. Right of entry

§ 47-31. Official identification

§ 47-32. Municipal cooperation

ARTICLE V Permits, Licenses and Certificates of Approval

§ 47-33. Requirement of permit, license or certificate of approval

§ 47-34. Exemption from requirement for ordinary repairs

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§ 47-35. Form of application

§ 47-36. Person to make application

§ 47-37. Description of work

CODE ENFORCEMENT

§ 47-38. Plans and specifications

§ 47-39. Plot plan

§ 47-40. Engineering details

§ 47-41. Amendments to applications

§ 47-42. Effective time period of applications

ARTICLE VII Permit Approvals; Conditions

§ 47-43. Action on applications

§ 47-44. Expiration of permits

§ 47-45. Validity of previously approved permits and plans

§ 47-46. Endorsement of approved permits and plans

§ 47-47. Revocation of permits

§ 47-48. Approval of permits in part

§ 47-49. Posting of permit

§ 47-50. Notice of start of work

§ 47-51. Permit conditions and requirements

§ 47-52. Changes in plot plans

ARTICLE VIII Licenses and Certificates of Approval

§ 47-53. Application requirements

§ 47-54. Action on applications

§ 47-55. Revocations

§ 47-56. Display of license or certificate

ARTICLE IX Fees

§ 47-57. When fees are to be paid

CODE ENFORCEMENT

§ 47-58. Payment of other special fees

§ 47-59. Account of fees collected; disposition

§ 47-60. Refunds

§ 47-61. Schedule of fees

ARTICLE XI Certificate of Use and Occupancy

§ 47-62. Requirement of certificate for new or altered buildings

§ 47-63. Issuance of certificate for existing building

§ 47-64. Temporary certificates

§ 47-65. Contents of certificates

ARTICLE XI Dangerous and Unfit Structures

§ 47-66. Condemnation

§ 47-67. Dangerous structures

§ 47-68. Structures unfit for human occupancy

§ 47-69. Notice of declaration of building as unfit

§ 47-70. Vacating of building declared unfit

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- § 47-94. Waiver of plan examination and field inspection
- § 47-95. Special technical services

CODE ENFORCEMENT

ARTICLE XVI Violations

§ 47-96. Notice of violation

§ 47-97. Prosecution of violation

§ 47-98. Violations and penalties

§ 47-99. Abatement of violations; designation of violations as public nuisances

[HISTORY: Adopted by the Council of the Borough of Montrose 5-5-75, approved 5-5-75. Sections 47-7 and 47-11A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction – See Ch. 43

Electrical standards – See Ch. 53

Fire prevention – See Ch. 59

Plumbing – See Ch. 84

Property maintenance – See Ch. 86

Zoning – See Ch. 112

ARTICLE I General Provisions

§ 47-1. Title and scope

These regulations shall be known as the “Code Enforcement Ordinance of the Borough of Montrose.” They shall control all matters concerning administration and enforcement of codes which pertain to the construction, alteration, addition, repair, removal, demolition, use and maintenance of all premises, buildings and structures and their service equipment and apply to existing or proposed buildings and structures in Montrose.

§ 47-2. Intent; construal of provisions

This chapter shall be construed to secure its expressed intent, which is to ensure public safety, health and welfare insofar as they are affected by building and property maintenance and by building construction through structural strength, adequate egress facilities, sanitary equipment, light and ventilation and fire safety and, in general, to secure safety to life and property from all hazards incident to the design, erection, repair, maintenance, removal, demolition or use of buildings, structures and premises.

§ 47-3. Applicability of provisions; conformance required

- A. The provisions of this chapter shall apply to all premises and buildings and structures and their appurtenant constructions, including vaults, area and street projections and accessory additions, and shall apply with equal force to municipal, county, state and private buildings except where such buildings are otherwise specifically provided for by statute.
- B. No premise shall be owned, maintained or used nor shall any building or structure be constructed, extended, repaired, removed or altered in violation of these provisions.

§ 47-4. Conflicting provisions

- A. State law. Whenever there is a conflict between any local ordinances and state laws, the more stringent shall prevail.
- B. Zoning restrictions. When the provisions specified for structural, fire and sanitary safety are more restrictive than the Zoning Ordinance,¹ this chapter and the codes shall control the erection or alteration of buildings in respect to location, use, permissible area and height, but in any case, the more rigid requirements of either the codes or the Zoning Ordinance shall apply whenever they may be in any conflict.

¹ Editor’s Note: See Ch. 112, Zoning

§ 47-5. Continuation of uses

- A. Continuation of unlawful uses. The continuation of occupancy or use of a building or structure or premises or a part thereof contrary to the provisions of this chapter shall be deemed a violation and subject to the penalties prescribed herein.
- B. Continuation of existing uses. The legal use and occupancy of any premise or structure existing on the date of adoption of this chapter may be continued without change, except as may be deemed necessary by the Code Enforcement Official for the general safety and welfare of the occupants and the public.

§ 47-6. Maintenance requirements; responsibility of owner

- A. All premises, buildings and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by this chapter and the codes shall be maintained in good working order.
- B. The owner or the designated agent of the owner shall be responsible for the safe and sanitary maintenance of the premises and the buildings or structures at all times.

§ 47-7. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

APPOINTING AUTHORITY or CHIEF APPOINTING AUTHORITY – The Borough Council of the Borough of Montrose.¹

CERTIFICATE OF APPROVAL – An authorization granted for the utilization of electrical equipment and as referred to in the Electrical Code.²

CERTIFICATE OF USE AND OCCUPANCY – An authorization granted, as herein provided, upon completion of a project for which a permit has been issued.

CODE ENFORCEMENT OFFICIAL – The executive official of the Office of Code Enforcement herein abbreviated as CEO and referred to in various codes as building official or fire official.

CODES – Any or all of the following duly enacted ordinances, as amended and adopted:

- A. The Montrose Building Code, hereinafter referred to as the Building Code.³
- B. The Montrose Plumbing Code, hereinafter referred to as the Plumbing Code.⁴

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art.I.

² Editor's Note: See Ch. 53, Electrical Standards

³ Editor's Note: See Ch. 43, Building Construction

⁴ Editor's Note: See Ch. 84, Plumbing

- C. The Montrose Fire Prevention Code, hereinafter referred to as the Fire Code.¹
- D. The Montrose Property Maintenance Code, hereinafter referred to as the Property Maintenance Code.²
- E. The Montrose Electrical Code, hereinafter referred to as the Electrical Code.³

LICENSE – An authorization to conduct certain specified business operations, and as referred to in the Fire Code⁴ as “permit”.

PERMIT – An authorization granted for construction, enlargement, alteration, repair, removal or demolition of a structure or part or component of a structure, and as referred to in the Building or Plumbing Codes.⁵

ARTICLE II Office of Code Enforcement

§ 47-8. Creation of Office and of executive official

There is hereby created by the Borough Council of Montrose an office of the municipality to be known as the “Office of Code Enforcement.” Said Office shall have the responsibility for administering and enforcing the provisions of this chapter and of those other codes and/or ordinances of the municipality herein referred to as codes, which designate said Office of Code Enforcement as their official administration and enforcement agency. The executive official in charge of the Office of Code Enforcement shall be known as the “Code Enforcement Official,” hereinafter abbreviated as the CEO.

§ 47-9. Appointment of Code Enforcement Official; qualifications

- A. The CEO shall be appointed by the chief appointing authority of the municipality, and the CEO shall not be removed from office prior to the expiration of the appointment except for cause and after full opportunity has been granted to be heard on specific and relevant charges by and before the appointing authority.
- B. To be eligible for appointment, the CEO shall have had at least three (3) years of building construction or repair or inspection experience. Additional qualifications or waivers of qualifications shall be at the discretion of the appointing authority.

¹ Editor’s Note: See Ch. 59, Fire Prevention

² Editor’s Note: See Ch. 86 Property Maintenance

³ Editor’s Note: See Ch. 53, Electrical Standards

⁴ Editor’s Note: See Ch. 59, Fire Prevention

⁵ Editor’s Note: See Ch. 43, Building Construction, and Ch. 84. Plumbing

§ 47-10. Employees

The CEO shall supervise such number of assistants and other employees as shall be necessary for the administration of this chapter, as appointed by the appointing authority.

§ 47-11. Deputies, qualifications

- A. The appointing authority may designate one (1) or more assistants as Code Enforcement Deputies who shall exercise all the powers of the CEO during the temporary absence or disability of the CEO. Subject to approval of the Borough Council, the Code Enforcement Official may delegate any of his powers, authorities and duties to a Code Enforcement Deputy. In this event, references to the CEO or Code Enforcement Official in this chapter shall be interpreted to include the Code Enforcement Deputy.¹
- B. No person shall be appointed as an assistant unless such person has had a least three (3) years of practical experience in the technical work which the person is appointed to supervise or in responsible charge of building construction or as a skilled worker. Additional qualifications or waivers of qualifications shall be at the discretion of the appointing authority.

§ 47-12. Restrictions on employees

- A. No official or employee connected with the Office of Code Enforcement shall inspect any building or property in which such person has a vested interest. In all cases, decisions and judgments and variations shall be without discrimination and without having the effect of granting a special privilege not shared by others in comparable conditions.
- B. It shall be unlawful for the CEO or any other employee or elected official of the Borough of Montrose to cause, either directly or indirectly, and personal gain to himself or to any other specified persons or firms by any demand, suggestion, influence or inference; provided, however, that this shall not restrict the legal and customary purchasing and selling by the municipality and its employees and officials.

§ 47-13. Relief from personal responsibility

The CEO or employee charged with the enforcement of this chapter, while acting for the municipality shall not thereby render himself liable personally and such person is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the municipality until the final termination of the proceedings. In no case, shall the CEO or any of his subordinates be liable for costs in any action, suit, or proceeding that may be instituted in pursuance of the provisions of this chapter. Any employee of the Office of Code Enforcement acting in good

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1

faith and without malice shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

§ 47-14. Records

Complete and official records shall be kept of all business and activities of the Office. All such records shall be open to public inspection at all appropriate times.

ARTICLE III Duties and Powers of Code Enforcement Official

§ 47-15. General

The CEO shall enforce all the provisions of this chapter. The duties of the CEO shall include the receipt of applications, the issuance of permits, notices, certificates and orders, the making of inspections to determine conformance with the codes and with this chapter, the undertaking of research and investigations, the establishment of appropriate rules, the keeping of records, the issuance of written annual reports and such other activities as may be required.

§ 47-16. Duties and powers with respect to property maintenance and zoning

- A. The CEO shall, upon written complaint or upon request by the municipal governing body, make inspections and determinations as necessary to enforce any provisions of the Property Maintenance Code and its amendments.¹
- B. In addition, the CEO may, upon appointment by the municipal appointive authority, serve as Zoning Officer with all the duties and authority thereof without conflict with this chapter.²

§ 47-17. Applications and permits

The CEO shall receive applications and issue permits for the erection and alteration of buildings and structures and inspect the premises for which such permits have been issued and enforce compliance with the provisions of this chapter.

§ 47-18. Notices and orders

The CEO shall issue all necessary notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance with all the requirements for the safety, health and general welfare of the public.

§ 47-19. Inspections

The CEO shall make all the required inspections, or the CEO may accept reports of inspection by authoritative and recognized services or individuals and all reports of such inspections shall be in

¹ Editor's Note: See Ch. 86, Property Maintenance

² Editor's Note: For provisions pertaining to duties and authority of the Zoning Officer, see Ch. 112, Zoning

writing and certified by a responsible officer of such authoritative service or by the responsible individual, or the CEO may engage such expert opinion as deemed necessary to report upon unusual technical issues that may arise, subject to the approval of the appointing authority.

§ 47-20. Research and investigations

The CEO may make or cause to be made investigations of new developments in the building industry subject to local climatic or other conditions; the CEO may accredit tests meeting the functional requirements of the codes conducted by accredited authoritative agencies, or the CEO may accept duly authenticated reports from the Building Officials and Code Administrators International, Inc., or from recognized authoritative sources, of all new materials and methods of construction proposed for use which are not specifically provided for in the codes. The costs of all tests or other investigations required under these provisions shall be paid by the applicant.

§ 47-21. Records

The CEO shall keep complete and official records of applications received; permits, licenses and certificates issued; fees collected; reports of inspection; and notices and orders issued. File copies of all papers in connection with enforcement and administration of this chapter shall be retained in the official records so long as the premises, building or structure to which they relate remains in existence.

§ 47-22. Annual report

At least annually, the CEO shall submit for audit to the governing authority of the municipality a written statement of all permits and licenses and certificates issued and denied, variations granted, fees collected and violations noted and dispositions of same violations.

§ 47-23. Promulgation of rules

- A. Rule-making authority. The CEO shall have power as may be necessary in the interest of public safety, health and general welfare to adopt and promulgate rules to interpret and implement the provisions of this chapter to secure the intent thereof, but no such rules shall have the effect of waiving working stresses or fire-resistive requirements specifically provided in the codes or of violating accepted engineering practice involving public safety.
- B. Accepted engineering practice. In the absence of approved rules, the regulations, specifications and standards listed in Appendix A, Accredited Authoritative Agencies; Appendix B, Accepted Engineering Practice; and Appendix C, Accredited Material Standards, of the Building Code¹ shall be deemed to represent accepted engineering practice in respect to the material, equipment, system or method of construction therein specified.
- C. Approval by governing body. No rule shall become effective until such rule shall have been presented, in writing, and approved by the municipality's governing body.

¹ Editor's Note: See Ch. 43, Building Construction

§ 47-24. Variances and modifications

- A. When there are, practical difficulties involved in carrying out structural or mechanical provisions of the codes or of an approved rule, the CEO may vary or modify such provisions upon application of the owner or agent of the owner, provided that the spirit and intent of the law shall be observed and public welfare and safety be assured.
- B. The application for modification and the final decision of the CEO shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the Office of Code Enforcement.

**ARTICLE IV
Inspection****§ 47-25. Preliminary inspection**

Before issuing a license or permit, the CEO shall examine or cause to be examined all buildings, structures and sites for which an application has been filed, and the CEO shall conduct such inspections from time to time during and upon completion of the work for which the CEO has issued a license or permit. The CEO shall maintain a record of all such examinations and inspections and of all violations of this chapter or of the codes.

§ 47-26. Final inspection

Upon completion of a building or structure or addition and before issuance of the certificate of use and occupancy, a final inspection shall be made and all violations of the approved plans and permit shall be noted, and the holder of the permit shall be notified of the discrepancies.

§ 47-27. Inspection services

The CEO may accept reports of a Deputy or of approved inspection services which satisfy the requirements as to qualifications and reliability.

§ 47-28. Plant inspection

When required by the provisions of the codes or by approved rules, materials or assemblies shall be inspected at the point of manufacture or fabrication.

§ 47-29. Inspection reports

All inspection reports shall be in writing and shall be certified by the CEO or Deputy or the individual when expert inspection services are accepted. A label or mark or approval permanently fixed to the product indicating the factory inspection has been made shall be accepted in lieu of the aforesaid report in writing.

§47-30. Right of entry

In the discharge of duties, the CEO or deputy shall, upon showing proper identification, have the authority to enter, at any reasonable hour, any structure or premises in the municipality to enforce the provisions of this chapter and of the codes. The owner, operator or occupant or other person in charge of any premises or structure shall give the CEO free access thereto and it shall be unlawful to refuse or impede entrance of the CEO to said structure or premises for the purpose of making any inspection. If any such owner, operator or other occupant or other person in charge refuses or impedes any required or lawful inspection, the municipality may seek, in a court of competent jurisdiction, and order that such owner, occupant or person in charge shall cease and desist with such interference.

§ 47-31. Official identification

The appointing authority shall provide for the CEO and Deputies a notification of appointment, which may be displayed for the purpose of identification.

§ 47-32. Municipal cooperation

The assistance and cooperation of police and all other municipal officials shall be available to the CEO in the performance of his duties.

ARTICLE V**Permits, Licenses and Certificates of Approval****§ 47-33. Requirement of permit, license or certificate of approval**

- A. When permit is required. It shall be unlawful, without a permit, to construct, enlarge, alter, move, remove or demolish a building in excess of one hundred (100) square feet or change the occupancy of a building from one use to another, requiring greater strength, exitway or sanitary provisions, except that ordinary repairs, as defined herein, which do not involve any violation of codes shall be exempt from this provision.
- B. When a license is required. It shall be unlawful, without a license, to engage in any business activity as defined within the Fire Code.¹
- C. When a certificate of approval is required. It shall be unlawful to utilize for more than thirty (30) days any electrical wiring in a newly constructed building or any electrical meter service that is newly installed or relocated without obtaining a certificate of approval.

§ 47-34. Exemption from requirement for ordinary repairs

Ordinary repairs to buildings may be made without application or notice to the CEO, but such repairs shall not include the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure

¹ Editor's Note: See Ch. 59, Fire Prevention

affecting the exit way requirements nor shall ordinary repairs include relocation of any standpipe, sewer, building drainage, drain leader, gas, soil, waste, vent or similar piping, electric service entrance or mechanical or other work affecting public health or general safety.

[Amended 2-6-17 by Ord. No. 2017-01, Adopted 2-6-17 conforms with UCC]

ARTICLE VI Permit Applications

§ 47-35. Form of application

This application for a permit shall be submitted in such form as the appointing authority shall prescribe and shall include a list of the applicant's estimated cost of the project used in determination of the fee and shall be accompanied by the required fee as prescribed therein.

§ 47-36. Person to make application

Application for a permit shall be made by the owner or lessee of the building or structure or agent of either or by the engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

§ 47-37. Description of work

The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot may not covered by the building and such additional information as may be required by the CEO.

§ 47-38. Plans and specifications

The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the codes, specific information shall be given to establish such quality, and, in no case, shall the code be cited or the term "legal" or its equivalent be used as a substitute for specific information. The CEO may waive the requirement for filing plans when the work involved is of a minor nature.

§ 47-39. Plot plan

There shall also be filed a plot plan showing the size and location of all the new construction and all existing structures on the site, distances from lot lines and the established street and roadway locations, and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot.

§ 47-40. Engineering details

The CEO may require to be filed adequate details of structural, mechanical and electrical work, including computations, stress diagrams, lot grades and other essential technical data. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design.

§ 47-41. Amendments to applications

Subject to the time limitations stated herein, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued, and such amendments shall be deemed part of the original application and shall be filed therewith.

§ 47-42. Effective time period of applications

An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after date of filing unless such application has been diligently prosecuted or a permit shall have been issued, except that, for reasonable cause, the CEO may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) day each.

ARTICLE VII

Permit Approvals; Conditions

§ 47-43. Action on applications

The CEO shall examine or cause to be examined all applications for permits and amendments thereto. If the application or the plans do not conform to the requirements of all pertinent laws, the CEO shall reject such application, in writing, stating the reasons therefor. If the CEO is satisfied that the proposed work conforms to the requirements of the codes and all laws and ordinances applicable thereto, the CEO shall issue a permit therefor as soon as practicable. The CEO may reject said application on the basis of inaccurate cost estimates. Rejection or approval shall be within fifteen (15) days after receipt of application.

§ 47-44. Expiration of permits

Any permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

§ 47-45. Validity of previously approved permits and plans

Nothing in this chapter or in the codes shall require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized and the construction of which shall have been actively prosecuted within ninety (90) days after the effective date of this chapter. The entire building shall be completed as authorized within two (2) years after the date of approval of the application.

§ 47-46. Endorsement of approved permits and plans

- A. Signature to permit. The CEO shall attach his signature to every permit, or the CEO may authorize a deputy to affix such signature thereto.
- B. Approved plans. The CEO shall endorse, in writing, both sets of corrected plans approved and one (1) set of such approved plans shall be retained by the CEO and the other set shall be kept at the building site open to inspection of the CEO or a deputy at all reasonable times.

§ 47-47. Revocation of permits

The CEO may revoke a permit issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit was based.

§ 47-48. Approval of permits in part

The CEO may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted, provided that adequate information and detailed statements have been filed complying with all the pertinent requirements of this chapter. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

§ 47-49. Posting of permit

A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the same.

§ 47-50. Notice of start of work

At least twenty-four (24) hours' notice of start of work under a permit shall be given to the CEO.

§ 47-51. Permit conditions and requirements

- A. Payment of fees. No permit shall be issued until the fees prescribed herein have been paid.
- B. Compliance with codes. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set asked any of the provisions of this chapter or the codes except as specifically stipulated by modification or legally granted variation as described in the application.
- C. Compliance with permit. All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

- D. Compliance with plot plan. All new work shall be located strictly in accordance with the approved plot plan.

§ 47-52. Changes in plot plans

No plan or lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan unless a revised diagram showing such changes, accompanied by the necessary affidavit of owner or applicant, shall have been filed and approved, except that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

ARTICLE VIII Licenses and Certificates of Approval

§ 47-53. Application requirements

- A. Form of application. The application shall be submitted in such form as the appointing authority shall prescribe and shall be accompanied by the required fee as prescribed herein.
- B. By who application is made. The application shall be submitted by the owner or lessee of the building or structure or agent of either, provided that such agent provides an affidavit, certifying to the appointment as agent in this matter. In any case, the name and address of the legal owner shall be denoted on the application.

§ 47-54. Action on applications

The CEO shall examine or cause to be examined all applications and either accept or reject said application with notice to the applicant of such action within fifteen (15) days after receipt of same. Acceptance or rejection shall be based upon conformity to this chapter and the codes.

- A. Acceptance. Notice of acceptance, as herein defined, shall be transmitted to the applicant in the form of the applicable license or certificate of approval.
- B. Rejection. Notice of rejection, as herein defined, shall be transmitted to the applicant in the form of written notice describing the reason for such rejection.
- C. Signature. The CEO or Deputy shall attach his own signature to each license and each certificate of approval and to each rejection notice issued.

§ 47-55. Revocations

The CEO may revoke any license or certificate of approval issued in case of any false statement or misinterpretation of fact on the application on which said license or certificate of approval was

issued or in case of any license failing to comply with the provisions applicable to said license in the Fire Code.¹

§ 47-56. Display of license or certificate

The person or firm to which a license or certificate of approval has been issued shall, upon request of the CEO or Deputy, verify the existence of said license or certificate of approval by displaying same to the CEO or Deputy.

ARTICLE IX Fees

§ 47-57. When fees are to be paid

No permit, license or certificate of approval shall be issued until the fees prescribed herein shall have been paid, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

§ 47-58. Payment of other special fees

The payment of the fee in connection with a permit, license or certificate of approval shall not relieve the applicant from the payment of other fees that may be prescribed by law or ordinance for zoning permits, sewer connections, electrical permits or fees for inspection, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of the Office of Code Enforcement.²

§ 47-59. Account of fees collected; disposition

The CEO shall keep an accurate account of all fees collected, and such collected fees shall be deposited at least monthly in the municipal treasury.

§ 47-60. Refunds

In the case of a revocation of a permit or abandonment or discontinuance of a building project, the work actually completed shall be computed and any excess fee for the incomplete work shall be returned to the permit holder, except that all penalties that may have been imposed on the permit holder under the requirements of this chapter shall first be collected. Such computation shall be based upon the ratio of cost actually accrued by the project to the total estimated cost. No refunds shall be allowed for licenses or certificates of approval.

§ 47-61. Schedule of fees

A. Building and plumbing codes.³

¹ Editor's Note: See Ch. 59, Fire Prevention

² Editor's Note: For zoning permit fees, see Ch. 112, Zoning; for sewer connection fees, see Ch. 91, Sewers, Art. II.

³ Editor's Note: See Ch. 43, Building Construction, and Ch. 84, Plumbing

1) Fees shall be based upon estimated total actual cost of the project, except that:

- a) Mobile home or prebuilt home. The fee shall include the cost of the home at the use site plus all costs of installation, including foundations, tie-downs and utility service installations.
- b) Moving of buildings. A fee of ten cents (\$0.10) for each one hundred dollars (\$100.) of the estimated cost of moving any structure plus the cost of new foundations and all other necessary work required to affix the structure to the site.
- c) Demolition. A fee of two dollars (\$2.) for each one hundred (100) square feet of total floor area of the building to be demolished, except that no fee shall be less than ten dollars (\$10.) nor more than two hundred dollars (\$200.). In addition, the applicant shall post a bond with the CEO for a sum equal to no less than four (4) times the assessed valuation of the building to be demolished, which bond shall be for the faithful performance of the demolition in accordance with the codes. No bond or fees shall be required in any project where the total floor area is less than five hundred (500) square feet.

2) Schedule.

Cost	Fee
\$51 to \$1,000	\$ 3.00
\$ 1,001 to \$2,000	6.00
\$ 2,001 to \$4,000	9.00
\$ 4,001 to \$6,000	12.00
\$ 6,001 to \$8,000	15.00
\$ 8,001 to \$10,000	20.00
\$10,001 to \$12,000	24.00
\$12,001 to \$14,000	28.00
\$14,001 to \$16,000	32.00
\$16,001 to \$18,000	36.00
\$18,001 to \$20,000	40.00
\$20,001 to \$25,000	50.00
\$25,001 to \$30,000	60.00
\$30,001 to \$40,000	70.00
\$40,001 to \$50,000	80.00
\$50,001 to \$60,000	90.00
\$60,001 to \$70,000	100.00
\$70,001 to \$80,000	120.00
\$80,001 to \$90,000	135.00
\$90,001 to \$100,000	150.00
Over \$100,001	\$1.00 per thousand

- 3) Estimated costs of a project shall be listed in the application for permit, and the CEO shall reject said application on the basis of an excessively inaccurate cost estimation. The applicant may appeal said rejection to the Code Hearing Board.
- B. Licenses. A fee of ten dollars (\$10.) shall be required for a license to conduct certain business operations, said license to be valid for five (5) years from date of issuance.
 - C. Certificate of approval. A fee of one dollar (\$1.) shall be required for a certificate of approval, said certificate to be valid for an unlimited duration of time.

ARTICLE X

Certificate of Use and Occupancy

§ 47-62. Requirement of certificate for new or altered buildings

- A. New buildings. No building hereafter erected shall be used or occupied, in whole or in part, until the certificate of use and occupancy shall have been issued by the CEO.
- B. Buildings hereafter altered. No building hereafter enlarged, extended or altered, in whole or in part, and no building hereafter altered for which a certificate of use and occupancy has not been heretofore issued shall be occupied or used until the certificate shall have been issued by the CEO certifying that the work has been completed in accordance with the provisions of the approved permit, except that any use or occupancy which was not discontinued during the work of alteration shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured.

§ 47-63. Issuance of certificate for existing building

Upon written request from the owner of an existing building, the CEO shall issue a certificate of use and occupancy, provided that there are no violations of law or orders of the CEO pending and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in this chapter or the codes shall require the removal, alteration or abandonment of or prevent the continuance of the use and occupancy of a lawfully existing building unless such use is deemed to endanger public safety and welfare.

§ 47-64. Temporary certificates

Upon the request of the holder of a permit, the CEO may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit shall have been completed, provided that such portion or portions may be occupied safely prior to full completion of the building without endangering life or public welfare.

§ 47-65. Contents of certificates

When a building or structure is entitled thereto, the CEO shall issue a certificate of use and occupancy within ten (10) days after written applications. The certificate shall certify compliance with the provisions of this chapter.

ARTICLE XI

Dangerous and Unfit Structures¹

§ 47-66. Condemnation

Structures shall be condemned as dangerous structures or unsafe for human occupancy as herein provided.

§ 47-67. Dangerous structures

If all or part of any building or structure (including, among others, a fence, billboard or sign) or the equipment for the operation thereof (including, among others, the heating plant, plumbing, electric wiring, moving stairways, elevators and fire-extinguishing apparatus) shall be found, in the opinion of the CEO, to be in an unsafe condition (dangerous to life, limb or property), the CEO shall proceed to have the same condemned pursuant to the applicable provisions of codes of the municipality pertaining to unsafe structures.

§ 47-68. Structures unfit for human occupancy

Whenever the CEO finds that any structure constitutes a hazard to the safety, health or welfare of the occupants or to the public because it lacks maintenance or is in disrepair, is unsanitary, vermin-infested or rodent-infected or because it lacks sanitary facilities or equipment or otherwise fails to comply with the minimum provisions of the Property Maintenance Code,² but has not yet reached such state of complete disrepair as to be condemned as a dangerous structure as hereinbefore provided, the CEO may declare such structure as unfit for human occupancy and order it to be vacated. If any structure or any part thereof is occupied by more occupants than permitted under the Property Maintenance Code or was erected, altered or occupied contrary to law, such structure shall be deemed an unlawful structure, and the CEO may cause such structure to be vacated. It shall be unlawful to again occupy such dwelling until it or its occupation, as the case may be, has been made to conform to the law.

§ 47-69. Notice of declaration of building as unfit

Notice of the declaration of any building under this Article as unfit for human occupancy and order to vacate it shall be served as provided in the Article and such other codes or ordinances of the municipality as pertain to unsafe buildings.

A. Placarding of structure. Any structure declared as unfit for human occupancy shall be posed with a placard by the CEO. The placard shall include the following:

- 1) Name of municipality.
- 2) The name of the authorized office having jurisdiction.

¹ Editor's Note: See also Art. XIII, Unsafe Buildings, of this chapter, and Ch. 86, Property Maintenance.

² Editor's Note: See Ch. 86, Property Maintenance

- 3) An order that the structure when vacated must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn.
 - 4) The date that the placard is posted.
 - 5) A statement of the penalty for defacing or removing the placard.
- B. Form of notice to owner. Whenever the CEO has declared a structure as unfit for human occupancy, he shall give notice to the owner of such declaration and placarding of the structure as unfit for human occupancy. Such notice shall:
- 1) Be in writing.
 - 2) Include a description of the real estate sufficient for identification.
 - 3) Include a statement of the reason or reasons why it is being issued.
 - 4) State the time to correct the conditions.
 - 5) State the time occupants must vacate the structure.
- C. Service of notice. Service of notice to vacate shall be as follows:
- 1) By delivery to the owner personally or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
 - 2) By certified or registered mail addressed to the owner at the last known address with postage prepaid thereon; or
 - 3) By posting and keeping posted for twenty-four (24) hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.
- D. Removal of placard or notice. No person shall deface or remove the placard from any structure which has been declared or placarded as unfit for human habitation except by authority, in writing, from the CEO.

§ 47-70. Vacating of building declared unfit

Any structure which has been declared and placarded as unfit for human occupancy by the CEO shall be vacated within a reasonable time as required by the CEO, and it shall be unlawful for any owner or operator to let any person enter, except for purposes of making required repairs or of demolition of said structure, and no person shall occupy any structure which has been declared or placarded by the CEO as unfit for human occupancy after the date set forth in the placard.

§ 47-71. Renewed occupancy of building declared unfit

No structure which has been declared or placarded as unfit for human occupancy shall again be used for human occupancy until written approval is secured from the CEO. The CEO shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.

§ 47-72. Report of notice to vacate

The CEO shall furnish a copy of each notice to vacate a building to the Chief of Police, the Chief of the Fire Department, the Borough Solicitor and Borough Secretary.

§ 47-73. Notice of violation; service

- A. Notice of violation shall be served upon the owner of record, provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally or, if not found, by leaving a copy thereof at the usual place of abode of the owner with a person of suitable age and discretion who shall be informed of the contents thereof or by sending a copy thereof by mail to the last known address or, if the letter with the copy is returned showing it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by the notice.
- B. Whenever the CEO determines that there has been or is a violation or that there are reasonable grounds to believe that there has been or is a violation of any provision of the Property Maintenance Code, the CEO shall give notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall:
 - 1) Be in writing.
 - 2) Include a description of the real estate sufficient for identification.
 - 3) Specify the violation which exists and the remedial action required.
 - 4) Allow a reasonable time for the performance of any act it requires.

§ 47-74. Prosecution of violation

In case any violation order is not promptly complied with, the CEO may request the legal representative to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation ordering such person:

- A. To restrain, correct or remove the violation or refrain from any further execution of work;
- B. To restrain or correct the erection, installation or alteration of such building;
- C. To require the removal of work in violation;

- D. To prevent the occupation or use of the building, structure or part thereof erected, constructed, installed or altered in violation of or not in compliance with the provisions of the Property Maintenance Code or in violation of a plan or specification under which an approval, permit or certificate was issued; or
- E. To comply with the penalty provisions of this chapter.

ARTICLE XII Stop-Work Orders

§ 47-75. Notice to owner

Upon notice from the CEO that work on any building or structure is being prosecuted contrary to the provisions of this chapter or the codes or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work and shall state the conditions under which work may be resumed.

§ 47-76. Unlawful continuance

No person shall continue any work in or about the building after having been served with a stop order except such work as he is directed to perform to remove a violation or unsafe conditions.

ARTICLE XIII Unsafe Buildings¹

§ 47-77. Determination that building is unsafe; disposition

All premises, buildings or structures that are or hereafter shall become unsafe, unsanitary or deficient in adequate exitway facilities or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe premises, buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure as the CEO may deem necessary and as provided for. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of the codes.

§ 47-78. Examination of buildings; report

The CEO shall, as provided in § 47-16 herein, examine every premise, building or structure reported as dangerous, unsafe structurally or constituting a hazard, and the CEO shall cause the report to be filed in a docket of unsafe structures and premises starting the use of the building, the nature and estimated amount of damages, if any, caused by collapse or failure.

¹ Editor's Note: See also Art. XI, Dangerous and Unfit Structures, of this chapter, and Ch. 86, Property Maintenance

§ 47-79. Notice to owner that building is unsafe

If an unsafe condition is found on a premise or in a building or structure, the CEO shall serve on the owner, agent or person in control of the premises, building or structure a written notice describing the premises, building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the premises, building or structure safe and secure or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. Such notice shall require the person thus noticed to declare, within forty-eight (48) hours, to the CEO the acceptance or rejection of the terms of the order.

§ 47-80. Restoration of unsafe building

A building or structure condemned by the CEO may be restored to a safe condition, except that if the damage or cost or reconstruction or restoration to a safe condition is in excess of fifty percent (50%) of its replacement value exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of buildings hereafter erected.

§ 47-81. Posting of notice

If the person addressed with an unsafe notice cannot be found within the borough after diligent search, then such notice shall be sent by registered or certified mail to the last-known address of such person, and a copy of the unsafe notice shall be posted in a conspicuous place on the premises, and such procedure shall be deemed the equivalent of personal notice.

§ 47-82. Disregard of notice

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the proper legal official of the municipality shall be advised of all the facts, and he shall institute the appropriate action to compel compliance.

§ 47-83. Emergency vacating of buildings

- A. When, in the opinion of the CEO, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life or when any structure or part of a structure has fallen and life is endangered by the occupation of the building, the CEO is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. The CEO shall cause to be posted at each entrance to such building a notice reading as follows:

THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED
BY THE CODE ENFORCEMENT OFFICIAL

- B. It shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or demolishing the same.

§ 47-84. Temporary safeguards

When, in the opinion of the CEO, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, the CEO shall cause the necessary work to be done to render such building or structure or part, thereof temporarily safe whether or not the legal procedure herein described has been instituted.

§ 47-85. Closing of streets

When necessary for the public safety, the CEO may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings and prohibit the same from being used.

§ 47-86. Emergency repairs; costs

- A. For the purposes of §§ 47-83 through 47-86, the CEO shall employ the necessary labor, equipment and materials to perform the required work as expeditiously as deemed necessary.
- B. Cost incurred in the performance of emergency work shall be paid from the municipal treasury on certificate of the CEO, and the legal authority of the municipality shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs.

§ 47-87. Board of Survey

- A. The owner of a building or structure or his duly authorized representative who has been served with an unsafe order and notice to make such structure safe, secure or habitable or to take down and remove such structure shall have the right, except in cases of emergency, to demand the appointment of a Board of Survey if such person deems such order to be unnecessary, improper or unreasonable. Such demand shall be in writing with a statement of the reasons therefor.
- B. Constitution of Board of Survey. The Board of Survey shall consist of the Zoning Hearing Board.¹
- C. Survey procedure. The powers and duties of the Board of Survey shall be:
 - 1) To inspect the building or structure and to confirm, modify or revoke the order of the CEO as may seem just, and proper in the interest of public safety and welfare.
 - 2) To determine the suitable cost of reconstruction, restoration or rehabilitation in the repair of an unsafe building or structure in case of disagreement or dispute.

¹ Editor's Note: For provisions pertaining to the duties and powers of the Zoning Hearing Board generally, see Ch. 112, Zoning.

- D. Survey findings. The Board of Survey shall determine its findings and submit a report, in writing, affirming or modifying the order of the CEO, in whole or in part, and recommending the remedial steps to be taken to render the building or structure safe.
- E. Method of decision. The findings and determinations of any two (2) members of the Board shall be deemed conclusive, and certified copies of the report shall be filed with the CEO and with the owner or representative of the owner and shall be binding upon the CEO and all parties in interest.

ARTICLE XIV **Code Hearing Board**

§ 47-88. Composition of Board; compensation

- A. The Code Hearing Board shall consist of the Zoning Hearing Board.¹
- B. Compensation of appointed members of the Board shall be determined by the proper authority of the municipality.

§ 47-89. Functions and duties: interpretation, variances, appeals

- A. Interpretation. On appeal from a determination of the CEO or on request of any municipal official, the Code Hearing Board shall decide any questions involving the interpretation of any provision of this chapter or of the codes.
- B. Variances. The Code Hearing Board may grant a variance from the strict application of this chapter or of the codes. Such variances may be granted only in those cases which would result in practical difficulty or unnecessary hardship and, provided that the public health and safety shall not be jeopardized.
- C. Appeals. The Code Hearing Board shall hear all appeals made to it and, depending on its findings, shall decide whether such appeals shall be granted.

§ 47-90. Requests for appeals or variances

Any person requesting a variance or aggrieved by a decision of the CEO or of the Board of Survey may take an appeal to the Code Hearing Board. All appeals shall be made in writing stating the grounds upon which the appeal is based and shall be transmitted to the Office of Code Enforcement. An appeal must be taken within ten (10) days of the action.

¹ Editor's Note: For provisions pertaining to the duties and powers of the Zoning Hearing Board generally, see Ch. 112, Zoning.

§ 47-91. Public hearings; adjourned meetings.

- A. The Code Hearing Board shall meet and conduct a hearing within thirty (30) days of the receipt of an appeal or a request for a variance. All hearings shall be public and all persons whose interest may be affected shall be given an opportunity to be heard. A record shall be kept of all evidence and testimony presented at the hearing.
- B. When all members are not present to consider a specific appeal, either the appellant, the CEO or the representative of either may request a postponement of the hearing.

§ 47-92. Actions of Board; enforcement of decisions

- A. The Board shall affirm, modify or reverse the decision of the CEO by a concurring vote of two (2) members.
 - 1) Every action of the Board shall be by resolution and certified copies shall be furnished to the appellant and to the CEO.
 - 2) Failure to secure two (2) concurring votes shall be deemed a confirmation of the decision of the CEO.
- B. The CEO shall take immediate action in accordance with the decision of the Board.

§ 47-93. Court review

Any person aggrieved by a decision of the Board, whether or not a previous party to the decision, or any municipal officer or official board of the municipality may apply to the appropriate court for a writ of certiorari to correct errors of the law in such decisions. Application for review shall be made to the proper court of jurisdiction within fifteen (15) days after the filing of the Board's decision in the Office of Code Enforcement.

ARTICLE XV
Control of Certain Construction

§ 47-94. Waiver of plan examination and field inspection

When plans for the erection or alteration of a building are prepared by a licensed professional engineer or registered architect, which plans contemplate structural work or structural changes involving public safety or health, and such plans are accompanied by an affidavit of the applicant that the applicant has supervised the preparation of the architectural, structural and mechanical design plans and that the applicant will supervise or check all work drawings and shop details for the construction and that the structure will be built under field supervision of the applicant in accordance with the approved plans and that such plans conform to all the provisions and that all the material used in the construction will be controlled materials, as defined in the codes, the CEO may waive examination of the plans and field inspection of the construction and may issue a permit for the performance of the work.

- A. Qualified supervisor required. The licensed or registered professional engineer or architect shall be qualified by experience and training in the particular field of construction, involved in the building project under consideration.
- B. Verified report. Before the issuance of the certificate of use and occupancy for such building, the licensed professional engineer or registered architect who prepared and filed the original plans and who supervised the erection of the building shall file verified report that the structure has been erected in accordance with the approved plans and, as erected, the building complies in all respects with the codes and all other laws governing building construction except as to the specific variations legally authorized under the provisions of this chapter or the codes and as specifically noted in the verified report and cited in the certificate of use and occupancy.

§ 47-95. Special technical services

When applications for unusual designs or magnitude of construction are filed, the CEO may refer such plans and specifications to the plan review services of the Building Officials Conference and Code Administrators International, Inc., for advice and recommendations as to their safety of design and compliance with the codes, or the CEO may, with the consent of the municipality, retain a licensed engineer or registered architect to examine such application for a specific building operation with respect to safety and conformance to statutory requirements. Such employed engineer or architect may be employed to supervise the construction in the field to secure compliance with the approved plans and permit, and, upon completion of the work, said supervising person and the builder shall file with the CEO a verified report to the effect that the building has been erected in accordance with accepted engineering practice and in conformity to all the statutory provisions governing building construction.

ARTICLE XVI Violations

§ 47-96. Notice of violation

The CEO shall serve a notice of violation or order on the person responsible for the violation of the provisions of this chapter, and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

§ 47-97. Prosecution of violations

If the notice of violation is not complied with promptly, the CEO shall request the legal counsel of the municipality to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

§ 47-98. Violations and penalties

A person or member of a partnership or corporation who shall violate any provision of this chapter or who shall fail to comply with any requirements thereof or who shall maintain a premise or who shall erect, construct, alter, repair or demolish a building or structure in violation of this chapter or of a permit or certification issued under the provisions of this chapter shall, upon conviction thereof in a summary proceeding, be guilty and be sentenced to pay a fine of not more than three hundred dollars (\$300.) or imprisonment for not more than thirty (30) days, or both. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of this chapter shall be paid over to the Borough of Montrose.

§ 47-99. Abatement of violations; designation of violations as public nuisances

- A. The imposition of the penalties herein prescribed shall not preclude the legal officer of the municipality from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop and illegal act, conduct, business or use of a building or structure in or about any premises.
- B. Any building or housing or part thereof erected, altered, extended, reconstructed or removed contrary to any of the provisions of this chapter is declared to be a public nuisance and abatable as such.¹

¹ Editor's Note: This subsection is derived from the authorizing statute as found in § 46202(24) of Chapter 91, the Borough Code, of Title 53, Municipal and Quasi-Municipal Corporations, of Purdon's Pennsylvania Status [53 P.S. § 46202(24)].

Chapter 53

ELECTRICAL STANDARDS

§ 53-1. Title

§ 53-2. Adoption of standards by reference

§ 53-3. Administration and enforcement

§ 53-4. Modifications in standards

§ 53-5. Conflicts with state law

[HISTORY: Adopted by the Council of the Borough of Montrose 5-5-75, approved 5-5-75. Amendments noted where applicable]

GENERAL REFERENCES

Building construction – See Ch. 43

Code enforcement – See Ch. 47

Fire prevention – See Ch. 59

§ 53-1. Title

This chapter may be cited and referred to as the “Montrose Electrical Cod,”

§ 53-2. Adoption of standards by reference

A certain document, three (3) copies of which are on file with the Borough Secretary of Montrose, being marked and designated as the “National Electrical Code of 1975, NFPA No. 70-1975, ANSI C1-1975,” as published by the National Fire Protection Association, is hereby adopted as the Electrical Code of the Borough of Montrose in the Commonwealth of Pennsylvania for the control of electrical installations and maintenance, as herein provided, and each and all of the regulations, provisions, conditions and terms of the National Electrical Code of 1975, including the modifications prescribed in § 53-4, are hereby referred to, adopted and made part hereof as if fully set out in this chapter.

§ 53-3. Administration and enforcement

The administration and enforcement of this chapter shall be carried out as prescribed by the Code Enforcement Ordinance and amendments thereto.¹ Said Code Enforcement Ordinance provides for certain powers and duties of a Code Enforcement Official and for procedures relative to applications, fees, inspections, appeals, penalties and other matters.

§ 53-4. Modifications in standards

A. Insertions: none.

B. Deletions:

- 1) Section 90-4, Enforcement, is hereby deleted in its entirety, and all sections and subsections having reference to administration or enforcement are deleted.
- 2) Section 336-3, Uses Permitted or Not Permitted, the following portion is hereby granted, “.....not exceeding three floors above grade.”

C. Revisions: none

§ 53-5. Conflicts with state law

Whenever there is a conflict between any local ordinances and state laws, the more stringent shall prevail.

¹ Editor's Note: See Ch. 47, Code Enforcement

Chapter 57

FIREARMS**§ 57-1. Discharge of firearms prohibited****§ 57-2. Violations and penalties**

[HISTORY: Adopted by the Council of the Borough of Montrose 9-9-57, approved 9-9-57. Section 57-2 amended at time of adoption of Code; see Ch.1, General provisions, Art. I. Other amendments noted where applicable.]

§ 57-1. Discharge of firearms prohibited

It shall be unlawful for any person to discharge any firearm or air rifle or any other machine or device which propels a pellet or projectile, within the limits of the Borough of Montrose, Susquehanna County, Pennsylvania, except insofar as such may be discharged in defense of person or property.

§ 57-2. Violations and penalties¹

Any person or persons violating any of the provisions of this chapter shall be subject to a fine of not more than three hundred dollars (\$300.) or to imprisonment for not more than thirty (30) days, or both.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 59

FIRE PREVENTION

§ 59-1. Title

§ 59-2. Adoption of standards by referenced

§ 59-3. Administration and enforcement

§ 59-4. Modifications in standards

§ 59-5. Conflicts with state law

[HISTORY: Adopted by the Council of the Borough of Montrose 5-5-75, approved 5-5-75. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction – See Ch. 43

Code enforcement – See Ch. 47

§ 59-1. Title

This chapter may be cited and referred to as the “Montrose Fire Prevention Code.”

§ 59-2. Adoption of standards by reference

A certain document, three (3) copies of which are on file with the Secretary of the Borough of Montrose, being marked and designated as the “BOCA Basic Fire Prevention Code, Third Edition, 1975,” as published by the Building Officials and Code Administrators International, Inc., as modified in § 59-4 herein, is hereby adopted as the Fire Prevention Code of the Borough of Montrose in the Commonwealth of Pennsylvania for the control of buildings and structures, as herein provided and each and all of the regulations, provisions, conditions and terms of the BOCA Basic Fire Prevention Code, Third Edition, 1975, with the modifications as prescribed in § 59-4 herein, are hereby referred to and adopted and made a part hereof as if fully set out in this chapter.

§ 59-3. Administration and enforcement

The administration and enforcement of this chapter shall be carried out as prescribed by the Code Enforcement Ordinance and the amendments thereto.¹ Said Code Enforcement Ordinance provides for certain powers and duties of a Code Enforcement Official and for procedures relative to application, fees, inspections, appeals, penalties and other matters.

§ 59-4. Modifications in standards

A. Insertions:

- 1) Article 2, Definitions, commencing on page 10, is hereby modified to include the following insertion:

Permit: A license as provided for in the Code Enforcement Ordinance.

B. Deletions. The following Articles and sections and appendix are hereby deleted in their entirety:

- 1) Article 1, Administration and Enforcement, and all portions of sections and subsections having reference to administration or enforcement.
- 2) Section F-301.0, Bonfires and Outdoor Rubbish Fires.
- 3) Section F-302.0, Discarding Burning Objects Prohibited.
- 4) Section F-303.0, Torches for Removing Paint.
- 5) Section F-307.0, Open Flame or Light.
- 6) Article 4, Fire Protection Systems.
- 7) Article 7, Application of Flammable Finishes.
- 8) Article 13, Lumber Yards and Wood working Plants.
- 9) Article 16, Places of Assembly.
- 10) Article 18, Tents and Air-Supported Structures.
- 11) Article 21, Welding or Cutting, Calcium Carbide and Acetylene Generators.

¹ Editor's Note: See Ch. 47, Code Enforcement

- 12) Article 24, Combustible Fibers.
- 13) Article 25, Compressed gasses.
- 14) Appendix D, Recommended Ordinance.....

C. Revisions:

- 1) In Section F-201.0, Applied Meaning of Words and Terms, page 12, the definition of “fire official” is hereby revised to read:

Fire official: The Code Enforcement Official or his Deputy, as provided in the Code Enforcement Ordinance.

- 2) Section F-308-1, General, page 19 is hereby revised to read: “.... Devices or appliances shall be maintained in accordance with.....
- 3) Section F-502.1, Unlocked stairway doors, page 37, is hereby revised to read:

F-502.1 Door locks:

- 4) Article 29, Flammable and Combustible Liquids, commencing on page 126, is hereby revised only to exclude any requirement designated or provided for within said Article 29 pertaining to the seeking, securing or possessing of any permit or license. Said revision shall hereby delete the following subsections and portions of subsections:
 - a) F-2900.2, Permit required.
 - b) F-2900.3, Permit application
 - c) F-2900.3.1, Stationary tank information
 - d) F-2904.6, Abandonment of tanks, said deletion applying and limited to the requirement of obtaining a permit.

§ 59-5. Conflicts with state law

Whenever there is a conflict between any local ordinance and state laws, the more stringent shall prevail.

Chapter 64

GARBAGE, RUBBISH AND REFUSE

- § 64-1. Definitions and word usage
- § 64-2. Exercise of statutory powers; statement of intent
- § 64-3. Collection and disposal of refuse restricted
- § 64-4. Contract to commercially collect refuse
- § 64-5. Types of services
- § 64-6. Residential service collection procedures; preparation of refuse
- § 64-7. Nonresidential and special service collection procedures
- § 64-8. Unlawful acts
- § 64-9. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 9-14-71, approved 9-14-71. Section 64-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Littering – See Ch. 70

Nuisances – See Ch. 76

Property maintenance – See Ch. 86

§ 64-1. Definitions and word usage

- A. Terms defined. The following words and terms, as used in this chapter, shall have the meanings hereby ascribed thereto unless the context clearly indicates a different meaning:

BULKY REFUSE – Large items of refuse, including but not limited to large appliances, furniture, automobiles, large automotive parts, trees, branches and stumps.

BUNDLE – A totally disposable package containing refuse only, not exceeding five (5) feet in its longest dimension, securely tied to permit lifting and carrying of the full weight by one (1) man without spillage, leakage or breakage. No bundle shall exceed sixty (60) pounds in weight. Refuse in a durable, sealed plastic bag shall be classified as a “bundle,” provided that it conforms to the above requirements.

CAN – A plastic or galvanized metal pail, watertight, with tightly fitting cover, with a maximum capacity of thirty-two (32) gallons and with a cover handle and side handles or bail.

COLLECTION – The gathering of refuse into a motor vehicle and the subsequent disposal of such refuse in a legally approved manner.

CONTAINER – A specially designed and constructed unit for the storage of refuse between collections. Containers shall be watertight, rodent-proof, and designed to be mechanically emptied into a collecting motor vehicle without spillage or leakage.

GARBAGE – All table refuse; animal and vegetable matter; offal from meat, fish and fowls; vegetables and fruits and parts thereof; and other articles and materials ordinarily used for food and which have become unfit for such use or which are for any reason discarded.

NONRESIDENCE – Any facility other than a residence, including commercial, institutional, governmental and industrial facilities.

PERSON – Any individual, business proprietorship, partnership, corporation, organization, governmental unit, institution, authority, landowner, occupant or legal entity located within the Borough of Montrose.

REFUSE – Solid waste materials and garbage which are discarded as useless except rubble.

RESIDENCE – The dwelling place of one (1) family unit.

SOLID WASTE – Material which lacks sufficient liquid content to become free-flowing.

SPECIAL SERVICE – Collection on a routine basis providing for collection of bulky refuse, rubble, quantities of refuse exceeding that allowed for standard services, carryout service for residences and any other solid waste collection service provided by the contractor, and to include all collections on a nonroutine basis.

STANDARD NONRESIDENTIAL SERVICE – Collection from nonresidences which is scheduled to occur on a routine basis, quantity and placement of refuse as agreed by the person and contractor.

STANDARD RESIDENTIAL SERVICE – Weekly collection of refuse from a residence, maximum four (4) cans of refuse or equivalent to the same weight each week, refuse being placed as herein specified.

- B. Word usage. In this chapter, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 64-2. Exercise of statutory powers; statement of intent

- A. The Borough of Montrose hereby exercises its powers, as defined within the Borough Code of the Commonwealth of Pennsylvania, to make regulations for the care and removal of garbage and other refuse material, including the imposition and collection of reasonable fees and charges therefor.¹
- B. As herein provided, the borough shall select and approve a single contractor to provide the service of collection and disposal of refuse. Said contractor shall provide such service to any person subscribing to such service and providing payment for such service. Payment shall be made by said person to the contractor; the rates for such service shall be limited by contract between the contractor and the Borough of Montrose.

§ 64-3. Collection and disposal of refuse restricted

No person, except the contractor as herein provided, shall commercially collect, haul or dispose of refuse for any other person within the Borough of Montrose or from any point within such borough; except, however, any person may donate refuse to any service, charitable or nonprofit organization.

§ 64-4. Contract to commercially collect refuse

The contract for the exclusive right to commercially collect refuse from other persons in the borough, and for the conveyance thereof, shall be awarded from time to time for such period of time as shall be determined by the Borough Council, to the lowest responsible bidder following the procedure prescribed by the Borough Code for the award of contracts in excess of one thousand five hundred dollars (\$1,500.). Such contract shall fix and regulate in a manner not inconsistent with the terms of this chapter, as Council shall direct, the prices to be charged and terms of payment by such contractor to customers and the manner, method and time of collecting and conveying refuse. The person to whom such contract shall be awarded shall, before undertaking any of his duties thereunder, give bond to the borough in the sum and with such security as Council shall require conditioned for the faithful compliance with the terms of the contract.

§ 64-5. Types of services

Any resident shall be entitled to subscribe to standard residential service or to special service or to both. Any nonresident shall be entitled to subscribe to standard nonresidential service or to special service or to both.

§ 64-6. Residential service collection procedures; preparation of refuse.

Any person subscribing to standard residential service shall prepare all refuse in the following manner and shall use the following procedures:

¹ Editor's Note: See 53 P.S. § 46202 (11).

- A. All refuse to be placed for collection shall be drained of liquids insofar as practicable and be placed in cans, containers or bundles as herein defined. The maximum gross weight of any can or bundle shall not exceed sixty (60) pounds.
- B. Cans, containers or bundles shall not be filled beyond capacity and lids or covers must be tightly closed and bundles and bags securely tied.
- C. Cans shall be kept in a sanitary condition by the person using same.
- D. All refuse shall be placed for collection within six (6) feet of the edge of the public roadway bordering the property of the person by 6:00 a.m. of the day of collection.
- E. No refuse can, container or bundle shall be placed in or upon any public street, alley, sidewalk, footpath or thoroughfare whatsoever unless the physical constitution of the area will not permit otherwise. In such case, all cans, containers or bundles shall be placed and arranged for collection in such a manner so as to cause minimal interference with usage of such thoroughfares.
- F. All cans shall be removed from the collection area by the person placing refuse for collection by 9:00 p.m. of the day service has been provided.

§ 64-7. Nonresidential and special service collection procedures

Any person subscribing to standard nonresidential service or to special service shall establish, by negotiation with the contractor, methods of collection and the rates for same; provided, however, that the rates charged the person shall not exceed those rate limits specified by the contract between the contractor and the borough, and further provided that such collection service shall not violate any term of any contract of this chapter or of any other ordinance of the Borough of Montrose. All service inquiries and complaints shall be initially addressed to the contractor who shall provide facilities for such communications.

§ 64-8. Unlawful acts¹

Upon the awarding of the herein referred to contract, it shall be unlawful for any person to:

- A. Deposit refuse in the can, container or bundle of another person or to place refuse with that of another person which is placed or to be placed for collection unless such persons are members of the same residence; provided, however, that consolidation of refuse shall be permitted with approval of the contractor.
- B. Deposit any refuse for lot filling or leveling purposes, except lawn and garden cleanings which may be composed.

¹ Editor's Note: See also Ch.70, Littering and Handbill Distribution, and Ch. 76, Nuisances

- C. Interfere with or to cause interference with any can, container or bundle of refuse.
- D. Transport refuse or rubble within the borough in such a manner that such materials leak, spill or blow from the transporting medium.
- E. Subscribe to and receive collection service of any type from the contractor and then to neglect providing proper payment for same.
- F. Create, cause or add to any refuse accumulation which is creating unwholesome odors or which is causing the attraction of insects or rodents or which is creating a fire hazard.
- G. Intentionally burn garbage.

§ 64-9. Violations and penalties¹

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.) or to imprisonment for not more than thirty (30) days, or both. Each day's violation of any of the provisions of this chapter shall constitute a separate offense.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 67

HAZARDOUS WASTES

§ 67-1. Definitions

§ 67-2. Prohibited actions

§ 67-3. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 4-1-85 as Ord. No. 85-1, approved 4-1-85. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse – See Ch. 64.

§ 67-1. Definitions

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

DISPOSAL – The dumping, burying or release of any hazardous wastes anywhere within Montrose Borough.

HAZARDOUS WASTES – All flammables, toxics, poisons, reactive, corrosives, low-level nuclear waste material and high-level nuclear waste material, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or
- B. Pose a substantial present or potential hazard to human (or animal) health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

PERSON – Every natural person, firm, corporation, partnership, association or institution.

PROCESSING – The treatment, preparation or handling of hazardous waste by some special method.

STORAGE – The holding or temporary deposit of hazardous wastes anywhere within Montrose Borough, above or below ground.

§ 67-2. Prohibited actions

It shall be unlawful for any person to accumulate, bury, process or dispose of hazardous wastes within the limits of Montrose Borough.

§ 67-3. Violations and penalties

Any person or any officer of any firm or corporation violating any of the provisions of this chapter shall, upon conviction thereof before a District Magistrate or Justice of the Peace of Susquehanna County, be sentenced to pay a fine of not less than one hundred dollars (\$100.) and not more than one thousand dollars (\$1,000.) per violation, together with costs of prosecution or imprisonment in the Susquehanna County jail for a period of not more than thirty (30) days. Any person or any officer of any firm or corporation shall, upon conviction, be liable for all costs associated with the restoration of the area to the same environmental state that prevailed prior to the violation. In the case of any continuing action or remaining instance in violation of this chapter, the Montrose Borough Council may institute in the name of the borough any appropriate action or proceeding to prevent, restrain, correct or abate the problem constituting a violation.

LITTERING AND HANDBILL DISTRIBUTION

Chapter 70

LITTERING AND HANDBILL DISTRIBUTION

ARTICLE I General Provisions

§ 70-1. Declaration of intent

§ 70-2. Definitions and word usage

ARTICLE II Litter Control

§ 70-3. Litter in public places

§ 70-4. Placing litter in receptacles to prevent scattering

§ 70-5. Litter in gutters

§ 70-6. Litter from vehicles

§ 70-7. Trucks causing litter

§ 70-8. Litter in parks

§ 70-9. Litter in public waters

§ 70-10. Litter on private and commercial premises

§ 70-11. Owners to maintain commercial premises litter-free

§ 70-12. Owners to maintain private premises litter-free

§ 70-13. Litter on vacant lots

§ 70-14. Notice to remove

ARTICLE III Distribution of Handbills

§ 70-15. Handbills in public places

§ 70-16. Handbills on vehicles

§ 70-17. Handbills on vacant premises

§ 70-18. Handbills on private premises

ARTICLE IV Penalties

§ 70-19. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse – See Ch. 64

Nuisances – See Ch. 76

Property maintenance – See Ch. 86

ARTICLE I General Provisions

§ 70-1. Declaration of intent

It is hereby declared and found that litter carelessly deposited in the borough is the cause of civic disgrace; that litter is a health, fire and safety hazard and pollutant; that an all-out litter control campaign can result in substantial savings to taxpayers of the borough; that litter is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public health, safety and general welfare of the people of the borough.

§ 70-2. Definitions and word usage

- A. Terms defined. As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings indicated:

BOROUGH – The Borough of Montrose in the County of Susquehanna, Commonwealth of Pennsylvania.

COMMERCIAL PLACE – Any store or building or group thereof, including shopping centers, shopping plazas, and other similar places, wherein mercantile activities and services are offered to the public, and includes all parking areas thereat.

GARBAGE – Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HANDBILL – Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature which:

- 1) Advertises for sale any merchandise, product, commodity or thing.

- 2) Directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales.
- 3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit.
- 4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

LITTER – Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare or creates unsightliness.

NEWSPAPER – Any newspaper of general circulation, as defined by law; any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation; and any newspaper filed and recorded with any recording officer, as provided by law. In addition, thereto, “newspaper” shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL – Any printed, or written matter, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original, or original or copies of any matter of literature not included in the aforesaid definitions of handbill and newspaper. This definition shall include advertising or other printed material distributed in connection with any political campaign.

PARK – A park, reservation, playground, beach, recreation center or any other public area in the borough owned or used by the borough and devoted to active or passive recreation.

PERSON – Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES – Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house building or other structure.

PUBLIC PLACE – Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

REFUSE – All putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH – Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE – Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

- B. Word usage – When not inconsistent with the context words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

ARTICLE II Litter Control

§ 70-3 Litter in public places

No person shall deposit or throw litter in or upon any street, sidewalk or other public place within the borough except in public receptacles, in private receptacles for collection, in official borough dumps or in rubbish pits.

§ 70-4 Placing litter in receptacles to prevent scattering

Persons placing litter in public receptacles or in private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 70-5 Litter in gutters

No person shall sweep or deposit in any gutter, street or other public place within the borough the accumulation of litter from any building or litter from any public sidewalk or driveway.

§ 70-6 Litter from vehicles

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or public place within the borough or upon private property.

§ 70-7 Trucks causing litter

No person shall drive or move any truck or other vehicle within the borough unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place nor shall any person drive or move any vehicle or truck within the borough, the wheels or tires of which carry onto or deposit in any street, alley or other public place any mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 70-8 Litter in parks

No person shall throw or deposit litter in any park within the borough except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 70-9 Litter in public waters

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the borough.

§ 70-10 Litter on private and commercial premises

No person shall throw or deposit litter on any occupied private property or commercial place within the borough, whether owned by such person or not, except that the owner or person in control of such private property or commercial place may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street or other public place or upon any private property.

§ 70-11 Owners to maintain commercial premises litter-free

Each owner or person in control of any commercial place, including shopping centers and delivery and parking areas thereat, shall keep said places, parking areas, delivery areas and other open areas which are a part of such commercial place free from litter

§ 70-12 Owners to maintain private premises litter-free

The owner or person in control of any private property shall at all times maintain the premises free from litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 70-13 Litter on vacant lots

No person shall throw or deposit litter on any open or vacant private property within the borough whether owned by such person or not.

§ 70-14 Notice to remove

The Borough Council is hereby authorized and empowered to notify the owner of any open or vacant private property or commercial place within the borough, or the agent of such owner, to properly dispose of litter located on such owner's property which is a nuisance or dangerous to public health, safety or welfare. Such notice shall be by certified mail addressed to said owner at his last known address.

ARTICLE III Distribution of Handbills¹

§ 70-15 Handbills in public places

No person shall throw or deposit any commercial or noncommercial handbills in or upon any sidewalk, street or other public place within the borough.

§ 70-16 Handbills on vehicles

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicles; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

§ 70-17 Handbills on vacant premises

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

§ 70-18 Handbills on private premises

- A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises.
- B. Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States or to newspapers, as defined herein, except that newspapers shall be placed on private property in such a manner as to prevent there being carried or deposited by the elements upon any street or other public place or upon private property.

ARTICLE IV Penalties

§ 70-19 Violations and penalties

Any person who shall be convicted of violating or failing to comply with the provisions of this chapter shall be deemed guilty of a summary offense punishable by a fine not exceeding three hundred dollars (\$300) or by imprisonment for not more than thirty (30) days, or both. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

¹ Editor's Note: For provisions pertaining to the registration and regulation of distributors of handbills, see Ch. 82, Peddling and Soliciting.

Chapter 71

LOITERING

§ 71-1 Definitions

§ 71-2 Prohibited actions

§ 71-3 Orders to leave public place

§ 71-4 Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 6-2-86 as Ord. No. 86-4¹, approved 6-2-86. Amendments noted where applicable.]

§ 71-1. Definitions

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LOITERING – Remaining idle essentially in one (1) location; lingering; spending time idly; loafing or walking about aimlessly in one (1) vicinity or neighborhood; or hanging around.

PUBLIC PLACE – Any place to which the public has access, including any public street or public sidewalk, the front of and the area immediately adjacent to any school, parking lot, store, restaurant, tavern or other place of business.

§ 71-2. Prohibited actions

No person shall loiter in public place in such manner as to:

- A. Create or cause to be created a danger of a breach of the peace.
- B. Create or cause to be created any annoyance to any person or persons.
- C. Obstruct the free passage of pedestrians or vehicles.
- D. Obstruct, molest or interfere with any person lawfully in any public place as defined in § 71-1 of this chapter. This shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.

¹ Editor's Note: This ordinance also provided that it shall become effective 6-15-86

§ 71-3 Orders to leave public place

Whenever the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in § 71-2 of this chapter, any police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

§ 71-4 Violations and penalties

Any person who shall violated any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300) and/or to imprisonment for a term not to exceed ninety (90) days.

MOBILE HOMES AND MOBILE HOME PARKS

Chapter 73

MOBILE HOMES AND MOBILE HOME PARKS

[At the time of the publication of this Code, the Borough Council was considering extensive revisions to the borough ordinance regulating mobile homes and mobile home parks, adopted 11-3-75. Upon final adoption of proposed revisions, that ordinance, as amended, will be included here.]

GENERAL REFERENCES

Building construction – See Ch. 43

Zoning – See Ch. 112

Chapter 76

NUISANCES

§ 76-1. Definitions and word usage

§ 76-2. Maintenance of nuisances prohibited

76-2-01 Dog Ordinance

§ 76-3. Removal of nuisances

§ 76-4. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 3-5-73; approved 3-7-73. Section 76-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 76-1. Definitions and word usage

- A. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

PERSON – Any natural person, partnership, association, firm or corporation.

DOG – Any member of the animal species, *Canis Familiaris*, whether male or female, neutered or spayed, 6 months or more in age.

- B. Word usage. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 76-2. Maintenance of nuisances prohibited

No person shall maintain or permit to be maintained on any property owned or occupied by him within the Borough of Montrose any nuisance, including but not limited to the accumulation of garbage and rubbish and junk and the keeping or storage of abandoned or junked automobiles and the maintenance of dangerous structures¹, same being hereby declared unlawful and an offense.

§ 76-2-01 Dog Ordinance [Adopted 5/6/96, Ordinance No, 1996-01]

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls, yelps to the great discomfort of the peace and quiet of the neighborhood, or in such

¹ Editor's Note: For additional provisions pertaining to accumulations of garbage, rubbish and refuse, see Ch. 64, Garbage, Rubbish, and Refuse; for additional provisions pertaining to dangerous structures, see Ch 47, Code Enforcement, Art. XI and XIII. See also Ch. 70, Littering and Handbill Distribution and Ch. 83 Property Maintenance.

manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs are hereby declared to be a public nuisance.

A. Petitions complaining of barking dogs:

1. Whenever any person shall complain to the Police Department that a dog which habitually barks, howls, or yelps is being kept by any person in the Borough, the Police Department shall notify the owner of said dog that a complaint has been received and that the person should take whatever steps necessary to alleviate the barking, howling or yelping.
2. If the warning given to the person alleged to be keeping a dog as set forth in (1) above is ineffective, then a verified complaint of at least two citizens not from the same family may be presented to the Police Department, alleging that a dog which habitually barks, howls or yelps is being kept by any person in the Borough. The Police Department shall inform the owner of such dog that said petition has been received and shall cite the owner of the dog for the violation of this section.

§ 76-3. Removal of nuisances

The borough may require the removal of any such nuisance or dangerous structure by the owner or occupier of such grounds, in default of which the borough may cause the same to be done and collect the cost thereof, together with a penalty of ten percent (10%), in the manner provided by law for the collection of municipal claims or by action of assumpsit or may seek relief by bill in equity.

§ 76-4. Violations and penalties¹

Any person, firm or corporation violating any provision of this chapter after being served with thirty (30) days' written notice to abate such violation shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300) or to imprisonment for not more than thirty (30) days, or both. Each day's violation of any provision of this chapter after service of thirty (30) days' written notice to abate said violation shall constitute a separate offense. Said notice to abate may be served personally, by certified mail, or, if said notice cannot be served by either of the above methods, service may be made by posting the premises with one (1) copy of said notice.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 79

PARKS

**ARTICLE I
Park Hours**

§ 79-1. Hours park closed; exemption

§ 79-2. Violations and penalties

**ARTICLE II
Motor Vehicles in Parks**

§ 79-3. Definitions

§ 79-4. Operation of motor vehicles prohibited

§ 79-5. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose: Art. I, 8-1-77, approved 8-1-77; Art. II, 8-5-85 as Ord. No. 85-2, approved 8-5-85. Section 79-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Recreation Board – See Ch. 29.

**ARTICLE I
Park Hours**

[Adopted 8-1-77, approved 8-1-77]

§ 79-1. Hours park closed; exemption

- A. It shall be unlawful and an offense for any person to be in Montrose Memorial Park between the hours of 10:00 p.m. and 4:00 a.m.
- B. Employees of Montrose Borough, Montrose Municipal Authority and Water Company employees are exempt from this Article.

§ 79-2. Violations and penalties [Amended 11-6-78, approved 11-6-78]

Any person violating the provisions of this Article shall be guilty of a summary offense and, on conviction thereof before a Magistrate, may be sentenced to pay a fine of not more than three hundred dollars (\$300) or undergo imprisonment for not more than thirty (30) days, or both.

ARTICLE II
Motor Vehicles in Parks
[Adopted 8-5-85 as Ord. No. 85-2, approved 8-5-85]

§ 79-3. Definitions

Words and phrases, when used in this Article shall have the meanings ascribed to them in the Vehicle Code of Pennsylvania, Title 75 of Pennsylvania Consolidated Statutes.

§ 79-4. Operation of motor vehicles prohibited

It shall be unlawful and an offense for any person to operate a motor vehicle within the limits of Montrose Memorial Park, with the exception of vehicles authorized by the Borough Manager for work within the park.

§ 79-5. Violations and penalties

Any person violating the provisions of this Article shall be guilty of a summary offense and, on conviction thereof before a Magistrate, may be sentenced to pay a fine of not more than three hundred dollars (\$300) or undergo imprisonment for not more than thirty (30) days, or both.

Chapter 82

PEDDLING AND SOLICITING

- § 82-1. Purpose
- § 82-2. Definitions
- § 82-3. Registration required
- § 82-4. Registration certificate
- § 82-5. Application for certificate
- § 82-6. Issuance of registration certificate
- § 82-7. General regulations
- § 82-8. Exemptions
- § 82-9. Interstate commerce; interpretation of provisions
- § 82-10. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Distribution of handbills – See Ch. 70.

§ 82-1. Purpose

This chapter is adopted to regulate the distribution of certain materials, peddling, soliciting and related activities within the Borough of Montrose. The registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the borough may be established, so that general regulations may be more effectively enforced, for the protection and maintenance of the health, safety, and welfare of the inhabitants of the borough and to prevent dishonest business practices and dishonest solicitation of funds in the borough.

§ 82-2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

DISTRIBUTOR – Any person who distributes or causes to be distributed on any street or public place within the borough any handbill, advertisement, circular, card, pamphlet or printed material of any kind other than a regularly delivered newspaper, magazine or periodical.

MERCHANDISE – All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvements or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors as defined herein.

PEDDLER – Any person, whether a resident of the borough or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word “peddler” shall also include the words “hawker”, “huckster” and “transient merchant”.

SOLICITOR – Any person, whether a resident of the borough or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place. The word “solicitor” shall also include the word “canvasser” or any person who goes from door to door, as described above, for the purpose of soliciting contributions and/or who collects funds from a stationary location on any street or other public place.

§ 82-3. Registration required

It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within the borough without first filing an application for registration and obtaining a registration certificate from the Borough of Montrose.

§ 82-4. Registration required

Upon obtaining a registration certificate as hereinafter provided, a peddler, solicitor, distributor or transient merchant may conduct his activities within the borough only as long as he adheres to the regulations set forth herein and carries the registration certificate upon his person at all times during the conduct of his activities. The registration certificate shall identify the person and the type of activity for which he has registered and shall be shown to any police officer or citizen upon request. All certificates shall expire on the date shown thereon, but in no case, shall any certificate be issued for a period of time of more than twelve (12) months.

§ 82-5. Application for certificate

- A. Every applicant for a certificate under this chapter, other than for the solicitation of contributions, shall file with the Mayor of the borough a sworn written application on a form to be furnished by the borough, which shall give or be accompanied by the following information or documents:
- 1) Name and description of the applicant.
 - 2) Permanent home address and full local address of the applicant.
 - 3) A brief statement of the nature of the activity and a description of the merchandise or service to be sold or performed.
 - 4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - 5) The length of time for which the certificate is desired.
 - 6) If a vehicle is to be used, a description of such vehicle and its license number.
 - 7) A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- B. In the case of solicitation of contributions, one (1) person shall make application for the organization at least thirty (30) days prior to the proposed date the solicitation will begin, which application shall give or be accompanied by the following:
- 1) Name and local residence of the applicant.
 - 2) Name and official address of the organization represented and the names and addresses of the organization's local officers and managers.
 - 3) Purpose of the solicitation.
 - 4) Name and address of the person or persons who will be in direct charge of conducting the solicitation.
 - 5) A list of the names and addresses of all sponsors, promoters and solicitors connected with the solicitation.
 - 6) An outline of the methods to be used in conducting the solicitation.
 - 7) The dates when the solicitation is to be made, giving the commencement and termination date.

- 8) A statement as to whether or not any commission, fee, wage or other compensation is to be paid in connection with such solicitation and, if so, details as to the amount to be expended from the funds collected.

§ 82-6. Issuance of registration certificate

- A. Upon receipt of the completed application form and payment of a fee of fifty dollars (\$50), a registration certificate shall be issued by the Mayor. The certificate shall give such information as shall be deemed necessary to adequately identify the registrant and the activity in which he is involved. The expiration date of the registration certificate shall in all cases be indicated.
- B. In the case of solicitation of contributions, the certificate shall be issued to the organization, which shall supply each of its agents or solicitors with credentials, in a form approved by the Mayor, giving the name of the solicitor, the name of the sponsoring organization, the purpose for which the solicitation is being made, the signature of the managing officer of the organization, the dates during which the solicitation is authorized to be made and the number of the registration certificate issued to the organization by the borough.
- C. Except as provided in Subsection B above, where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be registered separately. Upon expiration of a certificate, a new certificate will be issued upon compliance with all provisions of this chapter.

§ 82-7. General regulations

No person shall:

- A. Peddle, solicit or distribute merchandise except between the hours of 9:00 a.m. and 6:00 p.m. unless specifically having been invited into a house by the occupant or having made an appointment with a person previously.
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself as a peddler, solicitor or distributor registered with the borough and having displayed his certificate or credentials in the case of the solicitation of funds.
- C. Have exclusive right to any location in the public streets or operate in any congested area where his operations might impede or inconvenience the public.¹
- D. Enter or attempt to enter the residence of any person in the borough without an express invitation from the occupant of such residence.

¹ Editor's Note: As to use of sidewalks or highways for display or sale of goods and merchandise, see Ch. 96, Streets and Sidewalks, Art. IV, Obstructions.

- E. Conduct himself in such a manner as to become objectionable to or annoy an occupant of any residence.
- F. Shout, cry out, blow a horn, ring a bell or use any sound-making or amplifying device upon any of the streets, parks or public places of the borough or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, parks or other public places of the borough or upon private premises, for the purpose of attracting attention to any merchandise or services.
- G. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- H. Litter the streets, public places or properties within the borough with any merchandise or printed material.¹

§ 82-8. Exceptions

The following persons or organizations are exempt from the registration procedure upon compliance with all other provisions of this chapter and submission of applicable identification and documents to support the claim to exemption:

- A. Any charitable or religious society that shall conduct sales of personal property when the proceeds thereof shall be applied to the payment of the expenses thereof and to the charitable or religious object for which the society exists.
- B. Any person honorable discharged from the military services of the United States possessing a peddler's license issued in conformity with 60 P.S. § 61.
- C. Any person selling fruits and farm products grown by himself, with or without the help of others, or any person delivering bread and bakery products, meat and meat products, or milk products.
- D. Any person engaged in the delivery of goods, wares or merchandise or other articles or things, in the regular course of business, to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of a prior agreement.
- E. Any school, political or civic organization, benevolent society, service club or organization not for profit whose principal office is located in the Borough of Montrose or Township of Bridgewater.
- F. Newsboys.

¹ Editor's Note: See also Ch. 70, Littering and Handbill Distribution

- G. Persons selling personal property at wholesale to dealers in such articles.
- H. Persons conducting a bona fide auction sale pursuant to law or a sale required by statute or by order of any court.
- I. Minors involved in sales or solicitation; provided, however, that if such minors are working as agents for an organization, the organization must register as provided herein.

§ 82-9. Interstate commerce; interpretation of provisions

This chapter shall not be applied so as to occasion any undue burden upon interstate commerce with respect to any business or activity referred to herein. It is the intent of the Borough Council that this chapter be interpreted so as to achieve the primary purpose of protecting the health, safety and welfare of the inhabitants of the borough and not as to unduly regulate or control the proper conduct of any business or commercial activity.

§ 82-10. Violations and penalties

Any person violating any of the provisions of this chapter shall be deemed guilty of a summary offense punishable by a fine not exceeding three hundred dollars (\$300) or by imprisonment for not more than thirty (30) days, or both.

Chapter 84

PLUMBING

§ 84-1. Title

§ 84-2. Adoption of standards by reference

§ 84-3. Administration and enforcement

§ 84-4. Modifications in standards

§ 84-5. Conflicts with state law

[HISTORY: Adopted by the Council of the Borough of Montrose 5-5-75, approved 5-5-75; amended in its entirety 5-4-87 by Ord. No. 87-6, approved 5-4-87. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction – See Ch. 43.

Code enforcement – See Ch. 47.

Sewers – See Ch. 91.

§ 84-1. Title

This chapter may be cited and referred to as the “Montrose Plumbing Code”.

§ 84-2. Adoption of standards by reference

A certain document, two (2) copies of which are on file with the Secretary of the Borough of Montrose, being marked and designated as the “BOCA National Plumbing Code/1987, Seventh Edition,” as published by the Building Officials and Code Administrators International, Inc., is hereby adopted as the Plumbing Code of the Borough of Montrose, in the Commonwealth of Pennsylvania, for control of buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of the BOCA National Plumbing Code/1987, Seventh Edition, including the modifications prescribed in § 84-4, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

§ 84-3. Administration and enforcement

The administration and enforcement of this chapter shall be carried out as prescribed by the Code Enforcement Ordinance and the amendments thereto.¹ Said Code Enforcement Ordinance

¹ Editor’s Note: See Ch. 47, Code Enforcement

provides for certain powers and duties of a Code Enforcement Official and for procedures relative to applications, fees, inspections, appeals, penalties and other matters.

§ 84-4

PLUMBING

§ 84-5

§ 84-4. Modifications in standards

A. Insertions

- 1) Section P-308.3, Freezing: insert three (3) feet, zero (0) inches in line 2, page 27.

B. Deletions: The following sections are deleted:

- 1) Section P-104.1, Continuation.
- 2) Section P-112.0, Permits.
- 3) Section P-114.0, Fees.
- 4) Section P-117.0, Violations.
- 5) Section P-303.2, Public systems available.
- 6) Section P-308.4, Sewer depth.
- 7) All sections and subsections having reference to administration or enforcement.

C. Revisions. Whenever the words “Administrative Authority” or “Plumbing Inspector” are used in the BOCA National Plumbing Code/1987, Seventh Edition, they shall be held to mean the Office of Code Enforcement. Whenever the words “corporate unit” or “municipality” are used in the BOCA National Plumbing Code/1987, Seventh Edition, they shall be held to mean the Borough of Montrose.

§ 85-5. Conflicts with state law

Whenever there is a conflict between any local ordinance and state law, the more stringent shall prevail.

Chapter 86

PROPERTY MAINTENANCE

§ 86-1. Title

§ 86-2. Adoption of standards by reference

§ 86-3. Administration and enforcement

§ 86-4. Modifications in standards

§ 86-5. Conflicts with state law

[HISTORY: Adopted by the Council of the Borough of Montrose 5-5-75, approved 5-5-75. Amendments noted where applicable.]

GENERAL REFERENCES

Code enforcement – See Ch. 47

Garbage, rubbish and refuse – See Ch. 64

Littering – See Ch. 70

Nuisances – See Ch. 78

§ 86-1. Title

This chapter may be cited and referred to as the “Montrose Property Maintenance Code”

§ 86-2. Adoption of standards by reference

A certain document, three (3) copies of which are on file with the Secretary of the Borough of Montrose, being marked and designated as the “BOCA Basic Housing-Property Maintenance Code, Second Edition, 1970” (including 1971 Supplement), as published by the Building Officials and Code Administrators International, Inc., with modifications prescribed in § 86-4 herein, is hereby adopted as the Housing and Property Maintenance Code of the Borough of Montrose, Susquehanna County, Pennsylvania, for the control of all structures and premises, as herein provided, and each and all of the regulations, provisions, conditions and terms of the BOCA Basic Housing Property Maintenance Code, Second Edition, 1970 (including 1971 Supplement), with the modifications prescribed in 86-4 herein, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

§ 86-3. Administration and enforcement

The administration and enforcement of this chapter shall be carried out as prescribed by the Code Enforcement Ordinance and the amendments thereto.¹ Said Code Enforcement Ordinance provides for certain powers and duties of a Code Enforcement Official and for procedures relative to applications, fees, inspections, appeals, penalties and other matters.

§ 86-4. Modifications in standards

A. Insertions: none

B. Deletions: The following sections are hereby deleted in their entirety:

- 1) Section H-120.0, Enforcement Authority
- 2) Section H-130.0, Condemnation
- 3) Section H-140.0, Violations
- 4) Section H-141.0, Right of Appeal
- 5) Section H-150.0, Validity
- 6) All portions of sections and subsections having reference to administration or enforcement.

C. Revisions: The following terms, as used in Section H-210.0 of the BOCA Basic Housing Property Maintenance Code adopted heretofore, shall have the following meanings:

Building department: The Office of Code Enforcement

Building official: The Code Enforcement Official

Enforcement official: The Code Enforcement Official

§ 86-5. Conflicts with state law

Whenever there is a conflict between any local ordinances and state laws, the more stringent shall prevail.

¹ Editor's Note: See Ch. 47, Code Enforcement

- § 91-40. Drainage of storm and groundwater
- § 91-41. Authority Inspector
- § 91-42. Inspection requirements and procedures
- § 91-43. Effect of provisions on other legislation
- § 91-44. Violation and penalties
- § 91-45. Statement of necessity

[HISTORY: Adopted by the Council of the Borough of Montrose: Art.I, 9-4-62, approved 9-4-62; Art. II, 2-7-77, approved 2-7-77. Sections 91-20 and 91-44 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Municipal Authority – See Ch. 17
Plumbing – See Ch. 84
Street excavations – See Ch. 96, Art. VI

ARTICLE I Connections

[Adopted 9-4-62, approved 9-4-62]

§ 91-1. Definitions

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Article shall be as follows:

AUTHORITY – The Montrose Municipal Authority, a municipal authority of the Commonwealth of Pennsylvania, incorporated, organized and existing under the provisions of the Pennsylvania Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented.¹

BOROUGH – The Borough of Montrose, Susquehanna County, Pennsylvania, a municipal corporation of the Commonwealth of Pennsylvania acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

¹ Editor's Note: See 53 P.S. § 301 et seq. For the ordinance creating the Montrose Municipal Authority, see Ch 17, Municipal Authority, of this Code.

BUILDING SEWER – A sewer within a structure which services that structure only.
[Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

§ 91-1 SEWERS § 91-1

COUNCIL – The group of elected officials acting as the governing body of the borough.

DOMESTIC SEWAGE – The normal water-carried household and toilet wastes from any improved property.

IMPROVED PROPERTY – Any property located within the borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure domestic sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES – Any solid, liquid or gaseous substance or form of energy ejected or escaping in the course of any industrial, manufacturing, trade or business processing of natural resources as distinct from domestic sewage.

LATERAL – That sewer extending from a building sewer to the main. [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

MAIN – A sewer or portion thereof into which two (2) or more laterals discharge. [Added 7-6-81 by Ord. No. 81-2, approved 7-6-81]

OWNER – Any person vested with ownership, legal or equitable, sole or partial, of any property located within the borough.

PERSON – Any individual, firm, partnership, company, association, society, trust, corporation or other group or entity.

SERVICE LINE – The portion of a lateral from the building sewer to the property line of the landowner or to the curblineline, whichever length is shorter. [Added 7-6-81 by Ord. No. 81-2, approved 7-6-81]

SEWER – Any pipe, channel or conduit used or usable for collecting and transporting domestic sewage or industrial waste, but excluding building sewers. [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

SEWER SYSTEM – All facilities, as of any particular time, for collecting, transporting, pumping, treating and disposing of domestic sewage and industrial wastes situate in and adjacent to the borough and owned and operated by the Authority in connection with collecting, transporting, pumping, treating and disposing of domestic sewage and industrial wastes.

STREET – Includes any street, road, lane, court, alley, public square or highway.

§ 91-2. Connections to sewer system required upon notice

The owner of any improved property abutting on or adjoining any street in which there is a sewer shall connect such improved property with such sewer in such manner as the borough may require, within sixty (60) days after notice to such owner from the borough to make such connection, for the purpose of discharge of all domestic sewage and industrial wastes from such improved property subject to such rules, regulations, limitations and restrictions as shall be established herein or otherwise shall be established by the borough or the Authority from time to time.

§ 91-3. When notice to be given; contents

- A. The notice to be given by the borough to the owner of any improved property abutting on or adjoining any street in which there is a sewer requiring such owner to connect such improved property to such sewer, which notice is referred to in § 91-2 of this Article, shall be given by the borough as soon as a sewer is in place which can receive domestic sewage and industrial wastes from the particular improved property and which can transport the same for treatment and disposal.
- B. The notice to be given by the borough to the owner of any improved property abutting on or adjoining any street in which there is a sewer requiring such owner to connect such improved property to such sewer, which notice is referred to in § 91-2 of this Article, shall consist of a copy of this Article, including any amendments and/or supplements at the time in effect, or a summary of each section thereof and a written or printed document requiring such connection and specifying that such connection shall be made within the time prescribed in § 91-2 of this Article.

§ 91-4. Failure of property owner to connect; performance of work by borough

If the owner of any improved property abutting on or adjoining any street in which there is a sewer, after sixty (60) days' notice from the borough to connect such improved property to such sewer in accordance with the foregoing sections of this Article, shall fail to connect such improved property to such sewer as required and in the manner provided in this Article, the borough may make or cause to be made such connection and may collect from such owner the costs and expenses thereof by a municipal claim, an action in assumpsit or by such other legal proceeding as may be permitted or provided by law.

§ 91-5. Discharge of sewage and wastes into sewers required

All domestic sewage and industrial wastes from any improved property, after connection of such improved property with a sewer, shall be conducted and discharged into such sewer subject to such rules, regulations, limitations and restrictions as shall be established herein or otherwise shall be established from time to time by the borough or the Authority.¹

¹ Editor's Note: For current us regulations, see Art. II of this chapter.

§ 91-6. Permit required

No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any sewer or any part of the sewer system without first obtaining a permit, in writing, from the Authority. Application for a permit required under this section shall be made by the owner of the improved property served or to be served.

§ 91-7. Conditions for making of connection [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

No person shall make or shall cause to be made any connection or any improved property with the sewer system until such person shall have fulfilled all of the following conditions:

- A. Such person shall notify the Secretary of the Authority of the desire and intention to connect to a sewer.
- B. Such person shall apply for and obtain from the Authority a permit to make such connection with a sewer.
- C. Such person shall give the Secretary of the Authority at least twenty-four (24) hours' written notice of the time when such connection will be made in order that the Authority, by its authorized representatives, can supervise and inspect the work performed in making such connection and can supervise the testing thereof, if necessary.

§ 91-8. Independent connection of each improved property required [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Except as otherwise provided in this section, each improved property shall be connected separately and independently with a lateral at a service connection at the main to be designated in each case by the Authority. The grouping of more than one (1) improved property upon one (1) building sewer or upon one (1) service connection to a main shall not be permitted, except under cause shown, but then only after special permission of the Authority, in writing, shall have been secured.

§ 91-9. Manner of making connections; financial responsibility; liability [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Any connection to a main shall be made at a place designated by the Authority. All joints shall be sealed, shall be made airtight and shall be made smooth and clean inside in order to permit free flow of domestic sewage and industrial wastes without any obstruction. All work pertaining to the construction of a lateral and to the connection with a main, including testing, shall be, financially and otherwise, the responsibility of the owner of the improved property with which connection is made, subject to the right of supervision and inspection herein granted to the Authority. The owner of such improved property shall indemnify and save harmless the borough and the Authority from all loss or damage that may be occasioned by the borough and the

Authority, directly or indirectly, as a result of the connection of such improved property to the sewer system.

§ 91-10

SEWERS

§ 91-15

§ 91-10. Continuation of existing house sewer line. [Amended 7-6-81 by Ord. No. 81-2 approved 7-6-81]

Where an improved property, at the time connection to a main is required, shall be served by its own sewage disposal system or device, the existing lateral shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such lateral to the main.

§ 91-11. Inspection and approval [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

No lateral shall be covered until it has been inspected and approved by the Authority. If any part of a lateral is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the main.

§ 91-12. Construction and maintenance of building sewer [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Every building sewer shall be constructed and maintained in a sanitary and safe operating condition by and at the cost and expense to the owner of such improved property.

§ 91-13. Guarding of excavations; restoration of streets and sidewalks [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Every excavation for a lateral shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of installation of a lateral shall be restored at the cost and expense of the owner of the improved property in a manner satisfactory to the borough.

§ 91-14. Remedy of unsatisfactory conditions [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

If any person shall fail or refuse, upon receipt of a notice from the Authority, in writing, to remedy any unsatisfactory condition with respect to a building sewer or lateral within sixty (60) days of receipt of such notice, the Authority may and hereby is authorized to refuse to permit such person to discharge domestic sewage or industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of the Authority.

§ 91-15. Unlawful deposit or discharge of sewage and wastes

- A. No person shall place or deposit or permit to be placed or deposited upon public or private property within the borough any domestic sewage or industrial wastes in violation of § 91-2 of this Article.
- B. No person shall discharge or permit to be discharged to any natural outlet within the borough any domestic sewage or industrial wastes in violation of § 91-2 of this Article, except where suitable treatment has been provided which is satisfactory to the Borough.

§ 91-16. Connection of private sewage disposal receptacles [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

No privy vault, cesspool, sinkhole, septic tank or similar receptacle, at any time, shall be connected to the sewer system.

§ 91-17. Maintenance or use of private disposal receptacles prohibited; abandonment

- A. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be maintained upon any improved property after the expiration of the time specified in § 91-2 of this Article from which improved property connection with a sewer shall have been made or shall be required to be made, and it shall be unlawful for any owner of an improved property, after the expiration of the time specified in § 91-2 of this Article, to erect, construct, use or maintain thereon any privy vault, cesspool, sinkhole, septic tank or similar receptacle for disposition of domestic sewage and/or industrial wastes or to discharge domestic sewage and/or industrial wastes in any manner other than into the sewer system.
- B. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be abandoned and, at the discretion of the borough, shall be cleansed and filled at the expense of the owner of such property under the direction and supervision of the borough. Any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by the borough, cleansed and filled, shall constitute a nuisance, and such nuisance may be abated, as provided by law, at the expense of the owner of such improved property.

§ 91-18. Restrictions on imposition of rules and requirements by Authority [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

The Authority, in connection with the granting of a permit to any person to connect an improved property to a lateral or the sewer system, shall not impose any more stringent rules, regulations or requirements relative to such connection to a lateral or the sewer system than those set forth in this Article or adopted and promulgated by the borough from time to time; provided, however, that the Authority, as owner and operator of the sewer system, may compel the discontinuance of use of a sewer by any person or may compel the pretreatment of industrial wastes in order to prevent the discharge into the sewer system of any wastes which may be deemed by the Authority to be harmful to the sewer system or to have a deleterious effect on sewage treatment processes; provided, further, that any person deemed to having utilized the sewer system in such a manner as to result in deleterious effects to any portion of the sewer system or to the normal operation of the sewer system shall reimburse the Authority for any and all costs incurred by the Authority in efforts to remedy said deleterious effects.

§ 91-19. Promulgation of additional rules by borough

The borough reserves the right to adopt and promulgate, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections to the sewer system,

which additional rules and regulations shall become and shall be construed as a part of this Article.

§ 91-20

SEWERS

§ 91-24

§ 91-20. Violations and penalties [Amended 11-6-78 approved 11-6-78]

Any person who shall violate this article shall be liable, upon summary conviction, to a fine of not more than three hundred dollars (\$300) or to imprisonment for not more than thirty (30) days, or both. Each three-month period during which a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such. Fines imposed and costs payable under the provisions of this Article shall be enforceable and recoverable in the manner and at the time provided by applicable law.

§ 91-21. Statement of necessity

It is hereby declared that the enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the borough.

ARTICLE II

Use Regulations

[Adopted 2-7-77, approved 2-7-77]

§ 91-22. Definitions [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

The meaning of terms used in this Article shall be as set forth in § 91-1.

§ 91-23. Permit required [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Prior to the installation of or making of any connection or repair to any lateral, a permit must be obtained from the Authority.

§ 91-24. Permit application requirements; fees [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

- A. Application for a permit shall be made on a form furnished by the Authority. The application must be signed by such person or his duly authorized representative and shall include the name of the person designated to work upon the lateral.
- B. Whenever the application shall be for a permit to make a new connection to the sewer system, the payment of a tapping fee of three hundred dollars (\$300) for the first dwelling unit plus two hundred dollars (\$200) for each additional dwelling unit on the same permit shall be submitted with the application. No tapping fee shall be required for the replacement of an existing lateral.
- C. In the case of an application for a permit to authorize the installation of a single lateral to serve a multiple dwelling, all owners of the premises involved must personally sign the application which shall include clauses pertaining to all owners' joint rights to the use of the joint facilities and declare their obligation for mutually bearing the expense of the lateral itself and its future repair, maintenance and replacement. The instrument shall be worded to bind all the present owners, their heirs, successors or assigns.

§ 91-25. Permit endorsement [Amended 7-6-81 by Ord. No. 81-2 approved 7-6-81]

Upon completion of the installation of a new lateral and after the Authority Inspector has accepted the work as conforming to these rules and regulations and to all other rules and regulations of the borough and the Authority, the permit shall be endorsed and returned to the owner. Such endorsement shall indicate that the construction, as requested in the application, is satisfactorily completed. The lateral shall not be used prior to endorsement of the permit.

§ 91-26. Permit expiration

Every permit issued under the provisions of this Article shall expire and become null and void if the work authorized by the permit is not commenced within one (1) year from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time for a period of one (1) year. Before such work can be recommenced, a new permit shall be obtained.

§ 91-27. Connection of new buildings to sewer system required

All new buildings within the borough and discharging sewage shall be interconnected to the sewer system.¹ The only exception to this shall be by joint approval of the Montrose Municipal Authority and the Montrose Borough Council.

§ 91-28. Laterals to serve single premises [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]**§ 91-29. Fittings and connections**

No fitting, connection, device or method of installation which obstructs or retards the flow of wastes, sewage or air in the drainage or venting systems in an amount greater than the normal fractional resistance to flow of the material shall be used unless it is indicated as acceptable in this Article.

§ 91-30. Construction of laterals [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Laterals from the main to the building shall be constructed so as to permit unrestricted sewage flow at the expense of the property owner. Laterals shall be subject at all times to the inspection and approval by the Authority and its duly authorized representatives for proper construction as required herein. Gravity-flow laterals shall be not less than four (4) inches in diameter.

§ 91-31. Manholes [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

The Authority shall reserve the right to install manholes in the sewer system as deemed advisable. The Authority shall impose an additional manhole fee upon any property owner when the installation of a new lateral is deemed by the Authority to necessitate the installation of a manhole. Such manhole fee shall in no case exceed one-half (1/2) the total cost of the manhole.

¹ Editor's Note: See also Art. I, Connections of this chapter.

§ 91-32. Piping materials specifications

The following piping materials shall be acceptable:

- A. Standard weight cast-iron pipe shall be bell-and-spigot-type with mechanical joints. Mechanical joints shall be made by the use of a compression gasket that is compressed when the spigot is inserted into the hub of the pipe.
- B. Asbestos-cement non-pressure pipe shall conform to the requirements of having a minimum crushing strength for applied loads of one thousand five hundred (1,500) pounds per lineal foot. Joints shall be made with sleeve couplings of the same strength and material as the pipe with the proper sealing rings or gaskets to provide a watertight connection.
- C. PVC plastic sewer pipe shall meet standards ASTM D3033 and ASTM D3034. Each joint shall be made with approved fittings by either solvent-welded or fusion-welded connections or threaded joints according to accepted standards.
- D. Cement mortar joints. Except for repairs and connections to existing lines constructed with such joints, cement mortar joints are prohibited.

§ 91-34. Slope of laterals [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

Gravity-flow sewers shall be laid on a grade of not less than one-fourth (1/4) of an inch per foot for four-inch pipes and one-eighth (1/8) of an inch per foot for six-inch pipes or larger.

§ 91-34. Installation and construction specifications [Amended 7-6-81 by Ord. No. 81-2, Approved 7-6-81]

- A. Fittings. Changes in direction in drainage piping shall be made by the appropriate use of forty-five degree wyes; long or short sweep quarter bends; sixth, eighth or sixteenth bends; or by a combination of these or equivalent fittings. Single and double sanitary tees and quarter bends may be used in lines only where the direction of flow is from the horizontal to the vertical.
- B. Sewer and water pipes. Water service pipes or any underground water pipes shall not be run or laid in the same trench as the sewer.
- C. Trenching, excavation and backfill. All buried pipe shall be supported throughout its entire length. Trenches shall be of sufficient width to permit proper installation of the pipe. Where shoring is required, ample allowance shall be made in trench width for proper working conditions. Where trenches are excavated to grade such that the bottom of the trench forms the bed for the pipe, solid and continuous bearing between joints shall be provided and bell holes shall be provided at points where the pipe is joined, and the pipe shall not be supported on blocks to grade. Where trenches are excavated below grade such that the bottom of the trench does not form the bed for the pipe, the trench

otherwise, for the proper maintenance of any lateral shall bear solely upon the property owner, except as hereinafter stated:

§ 91-38

SEWERS

§ 91-41

A. The Authority shall bear no responsibility for the maintenance of any lateral without strict compliance with the following procedures:

- 1) In the event that a blockage occurs in either a main or a lateral, an affected property owner shall notify the Authority prior to any excavation of the lateral.
- 2) Upon receiving written permission and liability release from the property owner, the Authority shall, at no cost to the property owner, endeavor to determine the location of the blockage and to remove the blockage by accessing one or more existing cleanouts located in the laterals; should no cleanout exist in the lateral, the property owner shall install a cleanout as per § 91-36.
- 3) Any repair to the service line requiring excavation shall be the responsibility of the property owner.
- 4) Any repair to the lateral beyond the service line requiring excavation shall be the responsibility of the Authority, in which case, provided that the procedures described herein have been adhered to, any costs incurred by the property owner within the preceding ten (10) days for the installation of one (1) or more cleanouts in the lateral shall be reimbursed to the property owner by the Authority.

B. The financial responsibility of the Authority shall be limited to the aforementioned reimbursement, said reimbursement subject to full and complete compliance with this section.

§ 91-39. Cross-connections prohibited [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

No direct cross-connections shall be made between the water supply and plumbing connected to any sewer or building sewer in such manner as to permit back-siphonage of sewage into the water supply system.

§ 91-40. Drainage of storm and groundwater [Amended 7-6-81 by Ord. No. 81-2, approved 7-6-81]

The discharge of surface drains, eaves, troughs, foundation drains, cellar drains and sump pumps into the sewer system is expressly prohibited.

§ 91-41. Authority Inspector

The Authority Inspector shall authorize one (1) or more persons to enforce the provisions of this Article. Upon written notification of such authorization with the term of service specified, the borough shall, at its discretion, appoint said person as Authority Inspector. More than one (1) such Inspector is hereby permitted. The term of service and remuneration shall be the responsibility of and at the discretion of the Authority. The borough shall retain the right to revoke any appointment without being required to show cause for such revocation.

§ 91-42. Inspection requirements and procedures [Amended 7-6-81 by Ord. No. 81-2, Approved 7-6-81]

No lateral or part thereof shall be enclosed, covered up or put into operation until it has been inspected and approved by the Authority Inspector. During the progress of the construction and repair, inspections shall be made by the Authority Inspector as deemed necessary by the Inspector, and it shall be the responsibility of the holder of the permit to arrange for such inspections with the Authority Inspector at least twenty-four (24) hours before such inspection is to be made. No installation of plumbing work, whether new or existing, which is found to be defective or unsafe shall be allowed to be continued in use, and the Authority Inspector shall revoke all permits in effect, and the use of such defective or unsafe plumbing system shall be discontinued until such time as it is brought into compliance with this Article.

§ 91-43. Effect of provisions on other legislation

The existence of Building, Plumbing, Electrical, Property Maintenance and Fire Prevention Codes and a Code Enforcement Ordinance and other ordinances is hereby acknowledged with the expressed intent that this Article shall supplement rather than supersede these codes and ordinances.¹

§ 91-44. Violations and penalties

Any person, property owner or contractor who shall violate any of the provisions of this Article shall, upon conviction thereof in a summary proceeding before a Magistrate, be sentenced to pay a fine of not more than three hundred dollars (\$300) or to imprisonment for not more than thirty (30) days, or both. Each day of violation after conviction of any of the provisions of this Article shall constitute a separate offense.

§ 91-45. Statement of necessity

It is hereby declared that the enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the borough.

¹ Editor's Note: See, respectively, Ch. 43, Building Construction; Ch. 84, Plumbing; Ch 53, Electrical Standards; Ch. 86, Property Maintenance; Ch. 59, Fire Prevention; and Ch. 47, Code Enforcement.

STREETS AND SIDEWALKS

Chapter 96

STREETS AND SIDEWALKS

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ARTICLE VII Violations

§ 96-31. Violations and penalties

[History: Adopted by the Council of the Borough of Montrose during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Regulation of traffic and parking – See Ch. 107.

ARTICLE I
Curb and Gutter Construction

§ 96-1. Construction required upon notice

The owner or owners of lot or lots fronting or abutting upon any street or highway within the Borough of Montrose shall, after notice as hereinafter provided, construct curb or curbs and gutters along the front thereof within six (6) months from the date of the giving of such notice.

§ 96-2. Determination of kind and quality; grade

Whenever the Borough Council shall by resolution determine that curb or curbs and gutters shall be constructed along the edge of sidewalks upon any street or highway within the Borough of Montrose, it shall likewise determine by resolution the kind and quality of curb or curbs and gutters to be constructed and direct that grade stakes be set to properly designate the location and height of the curb or curbs and gutters.

§ 96-3. Service of notice; contents

Immediately after the determination by the Borough Council that curb or curbs and gutters shall be constructed, the Borough Secretary shall cause to be given notice, either written or printed in the manner as hereinafter specified, to the owner or owners of the lot or lots fronting upon the street or highway where curb or curbs and gutters are, by resolution of the Borough Council, directed to be constructed. The notice shall state the kind and quality of curb or curbs and gutters to be constructed, the size and dimensions thereof and the time, as hereinbefore provided, within which the owner or owners are required to construct the same. Such notice shall be given by service upon the owner or owners of the lot or lots to which the notice refers where said owner or owners are residents of the borough. If said owner or owners are not residents, then said notice may be served on the agent or tenant of said owner or owners or upon the occupants of said lot or lots.

§ 96-4. Performance of work by borough; collection of costs

Upon the neglect or refusal of the owner or owners of the lot or lots as aforesaid to comply with such requirements and directions in the construction of curb or curbs and gutters within the time hereinbefore specified, the borough may cause the curb or curbs and gutters to be constructed at the cost of such owner or owners and collect the cost thereof and an additional ten percent (10%), together with all charges and expense, from such owner or owners and file a municipal lien therefor against such or lots as provided by law.

ARTICLE II
Sidewalk Construction and Repair; Driveways

§ 96-5. Construction required upon notice

Every owner of property in the Borough of Montrose shall, on six (6) months' written notice from the Borough Council, construct a sidewalk in accordance with the provisions of this Article in front of or alongside of such property.

§ 96-6. Duty of owner

The owner of any premises abutting a sidewalk in the Borough of Montrose shall, at his own cost and expense, keep and maintain such sidewalk in good condition and state of repair and shall not permit the same to fall into a state of disrepair or to become unfit or unsafe to walk upon. In the event that any such sidewalk or any part thereof becomes unsafe or hazardous to the public or unfit to walk upon, the abutting owner, at his own cost and expense, shall with all expeditious speed, reconstruct or repair, as the facts may require, such sidewalk or curb or that part thereof which requires reconstruction or repair.

§ 96-7. Failure to construct or repair; collection of costs

In the event that the abutting owner fails to construct a sidewalk after notice, as provided in § 96-5 above, or fails to reconstruct or repair his sidewalk or curb or such part thereof as may require reconstruction or repair, as provided in this Article, the Borough Council may cause the said improvement or work to be done under the supervision of said Council or its designated agent or may award a contract therefore, and the cost thereof shall be assessed against the property of the abutting owner in accordance with the law in such case made and provided.

§ 96-8. Line and grade

All new sidewalks constructed by an abutting owner shall be constructed in accordance with the line and grade established by the borough. All old and existing sidewalks reconstructed or repaired by an abutting owner shall be reconstructed or repaired in accordance with the existing line and grade unless such line or grade is changed by the borough. It shall be the duty of the abutting owner, in all instances, to make inquiry of the borough respecting such line and grade.

§ 96-9. Compliance with specifications

Every sidewalk constructed, reconstructed or repaired shall be in accordance with specifications prepared at the direction of and approved by the Borough Council, which specifications are hereby incorporated into and made a part of this Article.

§ 96-10. Driveways and curb cuts

No person shall construct or cause to be constructed a driveway over any sidewalk or cut or cause to be cut any curb on any highway, street, or alley of the borough without obtaining a permit therefor from the borough. Permits shall be issued only under the following conditions:

- A. Plans; inspection. No permit shall be issued until a plan for the proposed driveway and/or curb cut is filed with the borough and a review and inspection of the proposed construction indicates that such construction conforms to the provisions of this section.
- B. Width and location restrictions. No permit shall be issued for the establishing of any curb cuts or the cutting of any established curbs for more than a continuous length of thirty-two (32) feet for each opening. No cut shall be made, established or permitted nor shall a driveway be constructed within ten (10) feet of a corner in any direction; provided, however, that where the strict application of these restrictions would cause unnecessary hardship to the applicant, the Council may, in its discretion, permit such other driveway construction or curb cuts as would not create danger or hazard to vehicular or pedestrian traffic.
- C. Drainage. No permit shall be issued unless adequate provision is made for the drainage under the driveway of water from the street.
- D. Specifications. Every driveway constructed over a sidewalk and every curb cut made shall be in accordance with specifications prepared at the direction of and approved by the Borough Council.

ARTICLE III**Maintenance of Sidewalk Area¹****§ 96-11. Duty of owner or occupant**

The owner or occupant of any premises shall keep the contiguous sidewalks free from snow, ice, dirt, filth, weeds and other obstructions or encumbrances and in good and safe repair and shall cause such sidewalks to be cleared of snow and ice within twenty-four (24) hours after any snowfall shall have ceased or ice has formed.

§ 96-12. Notice of violation; performance of work by borough; costs

- A. Any owner or occupant of a premises who has been notified by the Borough Secretary or Police Department that the contiguous sidewalks are in violation of § 96-11 hereof, except in regard to snow and ice, and who fails to correct the condition within ten (10)

¹ Editor's Note: See also Ch. 70, Littering and Handbill Distribution, Art. II.

days of the sending of such notice to his last known address by mail, shall be in violation of this Article.

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- B. In addition to the penalties otherwise enforceable for general violations of this Article, the borough may thereafter correct the prohibited condition and assess the cost thereof against the owner of the adjacent property. Such cost, if not paid, shall be assessable against the property as a tax thereon.
- C. In the case of snow and ice, no such ten-day notice is required, and if, within twenty-four (24) hours after the cessation of every fall of snow or the formation of any ice, the owner or occupant of any premises fails to clear such sidewalk of snow and ice, he shall be in violation of this Article. In addition, the borough may clear such sidewalks of snow and ice if they are not cleared by the owner or occupant within the said twenty-four (24) hours and assess the cost thereof against the owner of the adjacent property. Such cost, if not paid shall be assessable against the property as a tax thereon.

§ 96-13. Disposition of snow

Snow and ice removed from sidewalks, driveways and private property shall not be deposited or plowed into any public gutter, street or highway. The existence of any such deposit in or on a gutter, street or highway in front of a sidewalk, driveway or private property shall be prima facie evidence of a violation of this section by the owner, tenant or occupant thereof.

**ARTICLE IV
Obstructions**

§ 96-14. Deposit of materials on streets prohibited

No person, firm or corporation shall cause any earth, stones, bricks, building material or other matter or substance to be collected or remain upon any street, road or highway of the Borough of Montrose so as to be unsightly or to interfere with the use of said roads, streets or highways nor shall any person, firm or corporation place any earth or any other substance in the gutters of said roads, streets or highways so as to obstruct in any way the flow of water along such gutters.

§ 96-15. Obstructions prohibited; exceptions

No person shall in any manner obstruct any street, sidewalk or public passageway in the Borough of Montrose so as to endanger any person or property or to hinder or delay public travel thereon; provided, however, that nothing herein contained shall prohibit any person from making use of any street or sidewalk in strict conformity to §§ 96-16 and 96-17 below or from the setting out of receptacles or containers of garbage, rubbish or refuse for collection by the borough collector on the day or days when such materials are normally collected.

§ 96-16. Temporary obstructions for loading or unloading purposes

Any person engaged in delivering goods, wares or merchandise to any property abutting upon any sidewalk or in removing any personal property of any nature or character whatever from such property may, temporarily, for a total period of not more than one (1) hour, place any such goods, wares, merchandise or other personal property upon such sidewalk, as close as possible to

the curb, to facilitate the loading or unloading of same. The occupant of such property or the owner thereof where such property is not occupied shall be responsible for adhering to the requirements of this section. Any failure to conform to such requirements shall constitute a violation of this Article.

§ 96-17

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§ 96.17

§ 96-17. Building materials storage permit; conditions

- A. Under certain circumstances where, in the opinion of the Borough Council, there shall be no other practicable means for the storage thereof, a permit may be granted by such Council for the storage of building materials upon a limited portion of the public highway or sidewalk abutting upon the property where such materials are to be used. Such permit shall be issued for a fee of twenty-five dollars (\$25), payable to the Borough Secretary for the use of the borough, to the owner or occupant of such property where such materials are to be used.
- B. Such permit shall be issued upon the following conditions, which shall be strictly adhered to by the holder thereof:
 - 1) Such permit shall be valid for a limited time, not in excess of thirty (30) days, which shall be determined by the Borough Council on the basis of the scope of the work being undertaken and the inconvenience to the public involved, and such time shall be stated upon such permit.
 - 2) Such building materials shall occupy no more than one-half (1/2) the width of the sidewalk or one-third (1/3) the width of the public highway.
 - 3) Such building materials shall be placed so as not to interfere with drainage of the sidewalk, with access to any fire hydrant or with the flow of waters along the gutters.
 - 4) Such building materials shall be arranged in a regular, neat, compact form so as to occupy a minimum of space and to present the least risk of falling.
 - 5) The holder of such permit shall place lights and guards in the vicinity of or around such materials so as to prevent injury to persons and property.
 - 6) The holder of such permit shall file with the Borough Secretary a bond, in such sum as shall be determined by the Borough Council, to indemnify the borough against all damages, losses, costs or expenses that are or may be occasioned by reason of the placing or storage of such materials upon such sidewalk or public highway.
 - 7) All such materials shall be removed from the sidewalk or highway and such sidewalk or highway shall be restored to the condition in which it was immediately prior to such storage on or before the date of expiration of such permit. If the holder of such permit shall fail to comply with the provisions of this condition, such material may be removed by order of the Borough Council and shall be placed upon the property where such material is to be used, outside the limits of the sidewalk and, in such case, the expense of such removal and any additional charge authorized by law shall be collected by the borough from the holder of such permit; provided, however, that nothing herein contained shall be construed to interfere with the grading of sidewalks

or streets or the placing of material for such purpose under the direction of the borough official in charge thereof.

§ 96.18

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§ 96.23

§ 96.18. Protection of sidewalk during building construction

Every person erecting or repairing any building shall keep the sidewalk adjacent thereto clear and open except as may be authorized under a permit provided for in § 96-17 of this Article. Whenever necessary for the protection of the users of such sidewalk during the course of such building construction or repair, such person shall erect a suitable shed or other protective covering over such sidewalk.

§ 96-19. Storage of goods on sidewalk prohibited

No person, firm or corporation shall use any part of a sidewalk or highway either for any business purpose or for the storage, display, rental or sale of any goods, wares, merchandise or personal property.

§ 96-20. Sidewalk obstructions generally

No person shall hereafter erect or place any step, platform, passageway, enclosure, bulk, bay or jut window, porch or jamb or any similar obstruction in or upon any sidewalk, provided that nothing contained herein shall prohibit the construction or maintenance of awnings under the conditions set forth hereinafter, or the planting of trees between the curb and the paved portion of the sidewalk where such plantings are specifically authorized by ordinance or the erection of steps extending not more than three (3) feet from the property of building line of such street leading up to the first floor of any building, or the construction of cellarways as provided in § 96-21 of this Article.

§ 96-21. Maintenance of cellarway openings

No opening, railing or passageway into any cellar shall be permitted to extend more than three (3) feet from the building line to any sidewalk in the borough. Every cellarway opening onto any sidewalk shall be securely covered and protected with iron doors, which shall be constructed so as to close flush with the sidewalk. All such cellar doors shall at all times be kept in good repair and shall be closed at all times except when in actual use for the removal or receipt of goods, wares or merchandise, and, when opened every cellar door shall be properly guarded for the protection of persons using such sidewalk.

§ 96-22. Awnings

No person shall install, erect or maintain any awning, any portion of which shall overhang any sidewalk in the borough, unless the lowest point of such awning shall be not less than seven (7) feet above the level of such sidewalk.

§ 96-23. Overhanging vegetation

Trees and hedges overhanging sidewalks and highways shall be trimmed to provide clear passage of not less than twelve (12) feet above the sidewalk or highway.

§ 96-24

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§ 96-28

§ 96-24. Notice to remove obstruction; work by borough; collection of costs

Any construction or installation hereafter made or maintained in violation of any of the provisions of this Article shall constitute an unlawful obstruction to the convenient use of the sidewalk or highway. Within ten (10) days after notice to that effect from the Borough Council, the owner of any property abutting such sidewalk or highway shall remove such obstruction either by removal of the construction or installation constituting such obstruction or by making such alterations as may be necessary to conform strictly to the applicable requirements of the Article. In case the owner of such property shall neglect, refuse or fail to remove such obstruction within such time limit, the Borough Council may cause the same to be done at the expense of the borough, and the borough shall collect such expense and any additional penalty authorized by law from the owner of such property.

**ARTICLE V
Fires**

§ 96-25. Fires in public right-of-way prohibited

No person, firm, partnership or corporation shall burn leaves, rubbish or any other combustible material upon or in any street, highway, gutter, sidewalk, drainage ditch or any other part of a public right-of-way.

**ARTICLE VI
Excavations**

§ 96-26. Appointment of Road Inspectors; compensation

The borough shall appoint one (1) or more Road Inspectors for the Borough of Montrose who shall be paid reasonable compensation as determined by the borough, which shall in turn collect such compensation from the firm or person making the excavation, hereinafter called the excavator, where the Inspector(s) shall be working.

§ 96-27. Notice of excavation; inspection

When any excavation is made into the roads, streets, highways and rights-of -way of the Borough of Montrose, the excavator must give said borough written notice prior to or within no more than twelve (12) hours after said excavation stating the location, purpose, date and time of said excavation. The Road Inspector shall inspect said excavation for compliance with this Article.

§ 96-28. Backfilling of excavation

- A. It shall be unlawful for any corporation, firm or person to fill any excavation in the roads, streets, highways and rights-of-way of the borough unless said Road Inspector shall be present.

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§ 96-31

- B. All excavations in the roads, streets, highways and rights-of-way of said borough must be filled with material designed “2A modified” or the equivalent, as approved by the Road Inspector, which must be pneumatically tamped every six (6) inches while being replaced.
- C. It shall be unlawful to use any other material than 2A modified or its approved equivalent to refill excavations in the roads, streets, highways and rights-of-way of said borough.

§ 96-29. Restoration of surface

In the case of excavations in the roads, streets, highways and rights-of-way of the borough, the corporation, firm or person making such excavation shall ensure that the original surface will be initially restored within five (5) days, unless an extension of this time limit is granted in writing by the Road Inspector, and shall pay all expense of said restoration. In the event the excavator fails to restore the excavation and surface within the aforesaid time, the borough may elect to restore said surface, and the corporation, firm or person making the excavation shall reimburse the borough for the cost of said restoration.

§ 96-30. Period of liability for repair of surface

Where any corporation, firm or person shall make said excavation and the same shall be replaced as aforesaid and shall after subsidence, said corporation, firm or person shall be liable for the cost of repair of the road surface for a period of two (2) years after said initial restoration.

**ARTICLE VII
Violations**

§ 96-31. Violations and penalties

Any person who shall be convicted of violating or failing to comply with the provisions of this chapter shall be deemed guilty of a summary offense punishable by a fine not exceeding three hundred dollars (\$300) or imprisonment for not more than thirty (30) days, or both. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

SUBDIVISION AND LAND DEVELOPMENT

Chapter 98

SUBDIVISION AND LAND DEVELOPMENT

[At the time of the publication of this Code, the Borough Council was considering the adoption of a new ordinance pertaining to subdivision and land development or revision of the present subdivision regulations adopted 12-9-63. Upon adoption of the new ordinance or revision of the present ordinance, appropriate provisions will be included here.]

[At the time of rewriting this publication for the ability to upload onto the website, the Montrose Borough Subdivision and Land Development Ordinance, Ordinance Number 79-1, was updated and adopted on the 5th day of November 1979. Additional amendments were adopted in 1983. A copy of the Subdivision and Land Development Ordinance is available for viewing at the Montrose Borough Office.]

GENERAL REFERENCES

Planning Commission – See Ch. 24.

Building construction – See Ch. 43.

Mobile homes and mobile home parks – See Ch. 73.

Real estate transfer tax – See Ch. 102, Art. I.

Zoning – See Ch. 112.

TAXATION

Chapter 102

TAXATION

ARTICLE I Real Estate Transfer Tax

- § 102-1. Definitions and word usage
- § 102-2. Imposition of tax
- § 102-3. Payment of tax
- § 102-4. Affixing of stamp as evidence of payment
- § 102-5. Furnishing of stamps to Tax Collector; appointment of agents; commission
- § 102-6. Enforcement; rules and regulations
- § 102-7. Certification of value of transfer
- § 102-8. Unlawful acts
- § 102-9. Interest on unpaid taxes
- § 102-10. Recovery of unpaid taxes; lien
- § 102-11. Violations and penalties
- § 102-12. Statutory authority

ARTICLE II Per Capita Tax

- § 102-13. Imposition of tax
- § 102-14. Collection
- § 102-15. Bond of Tax Collector
- § 102-16. Warrant for collection of tax
- § 102-17. Expense of collection; compensation of Tax Collector
- § 102-18. Notice to taxpayers of amount due
- § 102-19. Addition of names to tax duplicate
- § 102-20. Duties of Tax Collector
- § 102-21. Imposition of tax to be in addition to all other taxes

[HISTORY: Adopted by the Council of the Borough of Montrose: Art. I, 6-7-71, approved 6-7-71; Art. II, 12-29-75, approved 12-29-75. Section 102-11 amended at time of adoption of Code; see Ch 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I
Real Estate Transfer Tax
[Adopted 6-7-71, approved 6-7-71]

§ 102-1. Definitions and word usage

- A. Terms defined. The following words, when used in this Article, shall have the meaning ascribed to them in this section except where the context clearly indicates or requires a different meaning:

ASSOCIATION – Every partnership, limited partnership or other form of unincorporated enterprise owned by two (2) or more persons.

CORPORATIONS – Every cooperative, joint-stock association or corporation whether organized under the laws of the Commonwealth, the United States or any other state, territory or foreign country or dependency.

DEED – Every contract, agreement, document, deed, decree, order, instrument or writing whereby any lands, tenements or hereditaments or any interest therein shall be aliened, granted, bargained, sold, transferred, conveyed, assigned, released or otherwise disposed of to any person, except, however:

- 1) Transfer by will or mortgage or the intestate laws of this Commonwealth.
- 2) Transfers by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single-family residential premises.
- 3) Transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law¹ and the shareholders thereof.
- 4) Transfers to nonprofit industrial development agencies.
- 5) Transfers between husband and wife.
- 6) Transfers between persons who were previously husband and wife but who have since been divorced, provided that such transfer is made within three (3) months of the date of the granting of the final decree of divorce and the property or interest therein, subject to such transfer, was acquired by husband and wife or husband or wife prior to the granting of the final decree in divorce.
- 7) Transfers between parent and child or the spouse of such child.
- 8) Transfers between parent and trustee for the benefit of a child or the spouse of such child.

¹ Editor's Note: Act of 1949, May 20, P.L. 1633, as amended; see 35 P.S. § 1661 et seq.

- 9) Transfers between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises.
- 10) Transfers constituting a correctional deed without consideration.
- 11) Transfers to the United States, the Commonwealth of Pennsylvania or to any of their instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation.
- 12) Deeds of confirmation in connection with condemnation proceedings.
- 13) Deeds of reconveyance by the condemning body of the property condemned to the owner of record at the time of the condemnation, which reconveyance may include property line adjustments, provided that such reconveyance is made within one (1) year from the date of condemnation.
- 14) Leases.
- 15) Conveyances to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor borrower upon the repayment of the debt.

INTEREST – Every vested or contingent title, right, privilege, power, benefit or advantage accruing to any person as the result of any transaction.

PERSON – Every natural person, association and corporation, including such persons, associations and corporations when acting in a representative or fiduciary capacity. Whenever used in any clause prescribing or imposing a penalty, or both, the term “person” shall include the partners in any partnership or limited partnership, the members of an unincorporated enterprise and the officer of any cooperative, joint-stock association or corporation.

TAX COLLECTOR- The duly elected or appointed Tax Collector of the Borough of Montrose, Susquehanna County, Pennsylvania.

TRANSFER – Every transfer of real property by deed, as herein defined, or of any interest in real property situate, wholly or partly, within the Borough of Montrose, Susquehanna County, Pennsylvania, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlement on such transfers takes place.

VALUE – The actual pecuniary worth of any interest which constitutes the subject matter of a transfer at the time the said transfer is consummated. Any actual monetary consideration for a transaction shall be prima facie, but not conclusive evidence, of actual pecuniary worth or value and shall be considered to include any sums of cash or articles of value agreed to be paid or exchanged. “Value” shall also mean the face value of all mortgages, notes, judgements, liens or encumbrances given in connection with the transaction, together with any other evidence of indebtedness on the premises, whether oral or written, given as full or part consideration for the transaction; provided, however, that that which is the subject matter of a transaction shall, in no event, be valued at less than the amount of the highest assessment of such interest for the local tax purposes if such interest has been so assessed.

- B. Word usage. Throughout this Article, the singular shall include the plural and the masculine shall include the feminine and neuter.

§ 102-2. Imposition of tax

There is hereby levied and assessed upon every transfer, as herein defined, a tax at the rate of one-half of one percent (1/2 of 1%) of the total value or fraction thereof of every interest which constitutes the subject matter of a transfer, provided that where any lands, tenements or hereditaments, or any interest therein, are located partly within and partly without the boundaries of the Borough of Montrose aforementioned, said tax is levied and assessed only upon the value of that portion of such lands, tenements or hereditaments, or interest therein, which lie within the boundaries of the borough aforementioned.

§ 102-3. Payment of tax

This tax shall be paid to the Tax Collector or his agent by the transferor named in the deed at the time of the delivery of recording of the deed.

§ 102-4. Affixing of stamp as evidence of payment

The payment of the tax herewith imposed by this Article shall be evidenced by affixing an adhesive stamp or stamps of proper denomination or a proper rubber stamp, which shall be furnished or affixed by the Tax Collector or his agent upon receipt of the payment of said tax to the deed, and the person so affixing the same shall cancel the same by causing to be written or stamped with a permanent ink upon the same the initials of his name and the date upon which the stamp was affixed. The stamp or stamps shall be affixed to the deed immediately upon the receipt thereof from the Tax Collector or his agents.

§ 102-5. Furnishing of stamps to Tax Collector; appointment of agents; compensation

- A. The Borough of Montrose shall prescribe, prepare and furnish the stamps to the Tax Collector who shall account to said Borough Council for the value of said stamps, and said Tax Collector may appoint persons within or without the Borough of Montrose as agents to furnish the stamps and collect the tax.

- B. The Tax Collector shall be allowed a commission of six percent (6%) of all taxes collected pursuant to this Article for the collecting of this tax; provided, however, that where said tax has been collected by an agent appointed by the Tax Collector, said agent shall be entitled to a commission of five percent (5%) of all taxes so collected, and the Tax Collector shall be entitled to a commission of one percent (1%) of all taxes so collected.

§ 102-6. Enforcement; rules and regulations

The Tax Collector is hereby charged with the enforcement of the provisions of this Article and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

- A. The registration and notation of all transfers and payment of taxes.
- B. The denomination and sale of stamps, including the use of a rubber stamp.
- C. Any other matter or thing pertaining to the administration and enforcement of the provisions of this Article.

§ 102-7. Certification of value of transfer

Every deed relating to any transfer taxable under this Article, when lodged with or presented to any recorder of deeds for recording, shall set forth therein and as part of such deed the true, full, complete and actual value thereof or shall be accompanied by either a certificate by an attorney at law or by an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full, complete and actual value thereof.

§ 102-8. Unlawful acts

It shall be unlawful for any person to:

- A. Make use of any stamp to denote payment of any tax imposed by this Article unless authorized by the Tax Collector as required by this Article.
- B. Fraudulently cut, tear, deface or remove a stamp from any deed.
- C. Fraudulently affix to any deed any stamp which has not been authorized by the Tax Collector or which has been previously used.
- D. Fraudulently fail to cancel or omit, as herein prescribed, any stamp authorized by the Tax Collector.

- E. Knowingly or willfully prepare, keep, sell, offer for sale, have or possess any forged or counterfeited stamp.
- F. Make a fraudulent statement as to the true, full, complete and actual value of any transfer as herein defined.

§ 102-9. Interest on unpaid taxes

All taxes imposed by this Article not paid when due shall bear interest from the due date at the rate of one-half of one percent (1/2 1%) per month until paid.

§ 102-10. Recovery of unpaid taxes; lien

- A. The tax imposed by this Article, together with interest from the due date, may be recovered as other debts of like character are recovered.
- B. The tax imposed by this Article shall, when due and unpaid, be and become a lien upon all lands, tenements or hereditaments or any interest therein lying within the boundary of the Borough of Montrose, Susquehanna County, Pennsylvania, which lands, tenements, hereditaments or interest therein are the subject matter of a transfer within the meaning of this Article, and lien to commence at the time when the tax imposed under this Article is due and payable and to continue until discharged by payment or in accordance with the law.

§ 102-11. Violations and penalties¹

Any person violating any of the provisions of this Article shall, upon conviction thereof by a District Magistrate or Justice of the Peace in a summary proceeding, be sentenced to pay a fine of not more than three hundred dollars (\$300) or to undergo imprisonment for not more than thirty (30) days, or both, and further shall be required to pay the amount of the tax, together with the interest thereon.

§ 102-12. Statutory authority

This tax is imposed under the authority of the Act of December 31, 1965, P.L. 1257, entitled the "Local Tax Enabling Act," as amended.²

ARTICLE II

Per Capital Tax

[Adopted 12-29-75, approved 12-29-75]

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: See 53 P.S. § 6901 et seq.

§ 102-13. Imposition of tax

A per capita tax of five dollars (\$5) for general borough purposes is hereby levied and assessed under the authority of the Act of December 31, 1965, and its amendments,¹ upon each resident or inhabitant of the Borough of Montrose over the age of twenty-one (21) years, which tax shall be in addition to all other taxes levied and assessed by said borough pursuant to any other laws of the Commonwealth of Pennsylvania.

§ 102-14. Collection

Such tax shall be collected by the duly elected or appointed Tax Collector of the Borough of Montrose in the same manner and at the same time as other borough taxes are collected as provided by the Local Tax Collection Law of 1945, as amended and supplemented.²

§ 102-15. Bond of Tax Collector

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other borough taxes.

§ 102-16. Warrant for collection of tax

The entry of the per capita tax in the tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed.

§ 102-17. Expense of collection; compensation of Tax Collector

The expense of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Enabling Act of 1965, as amended and supplemented,³ which compensation shall be the same as shall be fixed from time to time for the collection of other borough taxes.

§ 102-18. Notice to taxpayers of amount due

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this Article at the same time and in the same manner as provided by the Local Tax Enabling Act of 1965, as amended and supplemented.⁴

§ 102-19. Addition of names to tax duplicate

In case the Tax Collector shall at any time find within the borough any resident or inhabitant above the age of twenty-one (21) years whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor who shall thereupon certify the same unto the Borough Council which shall promptly certify the same to the Tax Collector

¹ Editor's Note: See 53 P.S. § 6901 et seq., which is known as the "Local Tax Enabling Act."

² Editor's Note: See 72 P.S. § 5511.1 et seq.

³ Editor's Note: See 53 P.S. § 6901 et seq.

⁴ Editor's Note: See 53 P.S. § 6901 et seq.

reporting such name whereupon the Tax Collector shall add such name and the assessment of this per capita tax against such person to the duplicate of the Borough of Montrose and shall proceed to collect the same.

§ 102-20. Duties of Tax Collector

A. The Tax Collector shall:

- 1) Give notice to the taxpayers.
- 2) Have the power to collect said taxes by distress.
- 3) Have the power and authority to demand and receive said tax from the employer of any person owing any per capita tax or whose wife owes any per capita tax.
- 4) Remit such taxes to the Borough Treasurer by separate statement at the same time as other taxes are remitted to the borough.
- 5) Allow discounts and add penalties.
- 6) Generally, be subject to all duties and shall have all the rights and authority conferred upon him by the Local Tax Enabling Act of 1965, as amended and supplemented.¹

B. It is hereby declared to be the intent of the Borough Council, in enacting this Article, to confer upon the Tax Collector, in the collection of this per capita tax, all the powers, together with all the duties and obligations to the same extent and as fully provided for in the Local Tax Enabling Act of 1965, as amended and supplemented.²

§ 102-21. Imposition of tax to be in addition to all other taxes

This Article providing for a per capita tax is in addition to any and all other taxes that may be assessed and levied by the Borough Council, property, trades, occupation and professions.

ARTICLE III Earned Income Tax [Adopted 10-3-11, approved 10-3-11]

§ 102-22. Imposition of Tax

- a) General Purpose Resident Tax: The Taxing Authority hereby imposes a Tax for general revenue purposes at the rate of 1% on earned income and net profits of individual

¹ Editor's Note: See 53 P.S. § 6901 et seq.

² Editor's Note: Original Section IX of this ordinance, which immediately followed this section and provided that the tax was imposed for the calendar year 1976 only, was omitted during codification as the tax is continued on a year-to-year basis.

residents of the Taxing Authority. The Taxing Authority also imposes a Tax for general revenue purposes at the rate of 1% on earned income and net profits derived by an individual who is not a resident of the Taxing Authority from any work, business, profession, or activity, of any kind engaged in which the boundaries of the Taxing Authority.

- b) Ongoing Tax: The Tax shall continue at the above rates during the current Tax Year and each Tax Year thereafter, without annual re-enactment, until this Enactment is repealed or the rate is changed.
- c) Combined Tax Rate Applicable to Residents: Currently, the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides.
- d) Municipal Tax Rate Applicable to Nonresidents: Currently, the total rate applicable to nonresidents working with the Taxing Authority based on the municipal nonresident tax rate is 1%.
- e) Local Tax Enabling Act Applicable: The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of the Enactment upon the effective date of such amendment, without the need for formal amendment of this Enactment, to the Maximum extent allowed by 1 PA. C.S.A. §1937.
- f) Applicable Laws, Regulations, Policies and Procedures: The Tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa. C.S.A. §1937.

§ 102-23. No Exemption from Tax

Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable laws and regulations, no individuals are exempt from Tax based on age, income, or other factors.

§ 102-24. Individual Tax Returns and Payments

Every individual receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act.

§ 102-25. Employer Withholding, Remittance, and Tax Returns

Every employer shall register, withhold, and remit Tax and file Tax Returns in accordance with the Local Tax Enabling Act.

§ 102-26. Tax Collector

The Tax will be collected from individuals and employers by the Collector.

§ 102-27. Interest, Penalties, Costs, and Fines

Individuals and employers are subject to interest, penalties, costs and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with authorization by the TCC having jurisdiction.

§ 102-28. Severability

The provisions of this Enactment are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Enactment. It is declared to be the intention of the Governing Body that this Enactment would have been adopted if such invalid or unconstitutional provision had not been included.

§ 102-29. Purposed / Repeal

The primary purpose of the Enactment is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment or part of any prior enactment conflicting with the provisions of this Enactment is rescinded insofar as the conflict exists. To the extent, the same as any enactment in force immediately prior to adoption of this Enactment, the provisions of this Enactment are intended as a continuation of such enactment and not as a new enactment. If this Enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of the Enactment. The provisions of the Enactment shall not affect any act done or liability incurred, nor shall such provision affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of the Enactment. Subject to the foregoing provisions of the Section, the Enactment shall supersede and repeal on the Effective Date any enactment levying a tax on earned income or net profits in force immediately prior to the Effective Date.

VEHICLES AND TRAFFIC

Chapter 107

VEHICLES AND TRAFFIC

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ARTICLE VII Repeal; Penalties

- § 107.53. Repeal of previous ordinances; effect
- § 107.54. Violations and penalties

[HISTORY: Adopted by the Council of the Borough of Montrose 2-6-78, approved 2-6-78. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks – See Ch. 96

ARTICLE I
General Provisions

§ 107-1. Definitions and interpretation

- A. Words and phrases, when used in this chapter, shall have the meanings ascribed to them in the Vehicle Code of Pennsylvania, Title 75 of the Pennsylvania Consolidated Statutes, as now in force or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.
- B. The term “legal holidays,” as used in this chapter, shall mean and include: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day or days celebrated as such.
- C. In this chapter, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.
- D. All distances specified shall be relative to curblines.

§ 107-2. Manner of adopting permanent traffic and parking regulations

All traffic and parking regulations of a permanent nature shall be enacted as ordinances or parts of ordinances or as amendments to ordinances of the Borough of Montrose.

§ 107-3. Temporary and emergency regulations; violations

- A. The Police Department shall have the following powers to regulate traffic and parking temporarily and in time of emergency:
 - 1. In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.
 - 2. In the case of emergency or to facilitate public works or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than seventy-two (72) hours.
- B. Such temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulation or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulations shall, upon conviction thereof, be liable to the penalty set forth in the Vehicle Code or elsewhere in this chapter for a violation of such nature.

§ 107-4. Experimental regulations

- A. The Borough Council may, by resolutions, from time to time designate places upon and along the highways in the borough where, for a period of not more than ninety (90) days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective just as if they had been specified in this chapter. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section.
- B. The purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the borough relative to traffic and parking.

§ 107-5. Enforcement

This chapter shall be enforced by the police officers of the Borough of Montrose who are hereby given authority to direct traffic on the highways and intersections of the borough in accordance with the provisions of this chapter and the laws of the Commonwealth of Pennsylvania.

**ARTICLE II
Traffic Regulations**

§ 107.6. Speed limits

The maximum speed at which vehicles may proceed on or along the highways or parts of highways within the borough is hereby established at twenty-five (25) miles per hour except as posted or indicated below:

<u>Name of Highway</u>	<u>Speed Limit (mph)</u>	<u>Limits</u>
Lathrop Street [Added 12-29-86 by Ord. No. 86-11, approved 12-29-86]	15	Entire length

§ 107.7. Traffic control signals

Traffic control signals shall be installed and operated at the intersection of those highways described below:

Intersection

Church Street at South Main Street and Public Avenue

§ 107-8. Turns on red signals

Pursuant to the provisions of Section 3112(a)(3)(ii) of the Vehicle Code [75 Pa. C.S.A. § 3112(a)(3)(ii)], no person shall make a right turn or a left turn from a one-way roadway onto a one-way roadway on a steady red light at the location described below:

<u>Red Signal Facing Traffic on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
(Reserved)		

§ 107-9. One-way highways established

The highways or parts of highways described below are hereby designated as one-way streets in the direction indicated:

<u>Name of Highway</u>	<u>Direction of Travel</u>	<u>Limits</u>
Monument Street	South	From Maple Street north for 388 feet
Unnamed Alley beginning 110 feet west of Chestnut Street between Church Street and the borough parking lot	South	From Church Street to the borough parking lot

§ 107-10. U-turns or left turns

It shall be unlawful for the operator of a motor vehicle or tractor to make a U-turn or left turn on any of the highways or parts thereof described below:

<u>Name of Highway</u>	<u>Location</u>
Pickett Street [Added 12-29-86 By Ord. No. 86-8, approved 12-29-86]	North and west, turning onto State Route 706
Public Avenue	Between Maple Street and Church Street

§ 107-11. Turns at intersections

No person shall make a turn of the kind designated (left, right, all) at any of the intersections described below:

<u>Name of Highway</u>	<u>Direction of Travel</u>	<u>Prohibited Turn</u>	<u>At Intersection of</u>
(Reserved)			

§ 107-12. Lane reservations

Lanes for right or left hand turns only, as indicated, are hereby reserved upon the highways or parts of highways described below, and traffic for any other purpose upon such lanes in hereby excluded.

<u>Name of Highway</u>	<u>Direction of Travel</u>	<u>Lane Reserved</u>	<u>Permitted Turn</u>	<u>Location</u>
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(Reserved)

§ 107-13. Center structures at intersections

All vehicular traffic shall keep to the right of the following structures or barriers located in the center of the specified intersections:

<u>Structure on Name of Highway</u>	<u>At Intersection of</u>
-------------------------------------	---------------------------

(Reserved)

§ 107-14. Through highways

The highways described below are hereby established as through highways, and the operator of every vehicle or tractor upon approaching any such highway at any intersection thereof (except for such intersections where there are now or shall hereafter be located official traffic signals) shall come to a full stop, within a reasonable distance, before entering any such through highway.

<u>Name of Highway</u>	<u>Limits</u>
Cherry Street	Entire length
Church Street	Entire length
Grow Avenue	Entire length
Lake Avenue	Entire length
Maple Street	From Grow Avenue to Chenango Street
Public Avenue	Entire length
South Main Street (Route 29)	Entire length
Wyalusing Street	Entire length

§107-15. Stop intersections

The intersections described below are hereby established as stop intersections, * and official stop signs shall be erected in such a position upon the first-named highway as to face traffic approaching the second-named highway as to face traffic approaching the second-named highway in the direction or directions indicated. All vehicles and tractors approaching any such intersection upon the first-named highway, in the direction or directions indicated in each case, shall come to a full stop, within a reasonable distance, before entering any such intersection.

***Note: These stop intersections are in addition to highways intersecting with the through highways established by § 107-14.**

§ 107-15. Stop intersections

The intersections described below are hereby established as stop intersections, * and official stop signs shall be erected in such a position upon the first-named highway as to face traffic approaching the second-named highway in the direction or directions indicated. All vehicles and tractors approaching any such intersection upon the first-named highway, in the direction or directions indicated in each case, shall come to a full stop, within a reasonable distance, before entering any such intersection.

<u>Stop Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Berry Street	East	Chestnut Street
Chenango Street	North/South	Prospect Street
Cliff Street	North	Cedar Street
Cliff Street	North/South	Laurel Street
Cliff Street	South	Union Street
Griffis Street	South	Griffis Street spur to Prospect Street
High Street	North/South	Locust Street
Lincoln Avenue	South	Drinker Street
Lincoln Avenue	South	Wilson Street
Mill Street	East/West	High Street
Post Street	South	Bank Street
Prospect Street [Added 11-6-78 by Ord. No. 11-78, approved 11-6-78]	East/West	Chenango Street
Prospect Street	West	Owego Street
Ridge Street	North/South	Cedar Street
Wilson Street	West	Park Street

§ 107-16. Yield right-of-way intersections

The intersections described below are hereby established as yield right-of-way intersections, and official yield signs shall be erected in such a position upon the first-named highway as to face traffic approaching the second-named highway in the direction or directions indicated. All vehicles and tractors approaching any such intersection upon the first-named highway, in the direction or directions indicated, shall yield the right-of-way to any vehicle in the intersection or approaching on the second-named highway so closely as to constitute an immediate hazard during the time that the operator of such vehicle or tractor is moving across or within such intersections.

***Note: These stop intersections are in addition to highways intersecting with the through highways established by § 107-14.**

<u>Yield Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Berry Street	East	Spruce Street
Borough parking lot exit	East	Chestnut Street
Cruser Street	South	Lake Avenue
Dean Street	West	Ridge Street
Drinker Street	West	Park Street
Gary Lane	South	Little Street
Gary Lane	North	Ridge Street
Griffis Street	West	Prospect Street
Hinds Street	North	Ridge Street
Jackson Street	East	Cliff Street
Jessup Street	North	Bank Street
Laurel Street	East	Ridge Street
Lincoln Avenue	North	Drinker Street
Lincoln Avenue	North/South	Jackson Street
Little Street	East	Hinds Street
Pine Street	East	Chenango Street
Pine Street	West	Maple Street
Spruce Street	West	Maple Street
Strawberry Lane	East	Cherry Street
[Added 11-6-78 by Ord. No. 11-78, approved 11-6-78]		
Turrell Street	West	High Street
Unnamed Ridge/Cedar Diagonal	South	Cedar Street
[Amended 11-6-78 by Ord. No. 11-78, approved 11-6-78]		
Unnamed Ridge/Cedar Diagonal	North	Ridge Street
[Amended 11-6-78 by Ord. No. 11-78, approved 11-6-78]		

§ 107-17. No-passing zones

The zones described below are hereby established as no-passing zones, and it shall be unlawful for any person driving a vehicle to pass any other vehicle which is proceeding in the same direction.

<u>Name of Highway</u>	<u>Limits</u>
Cherry Street	From Mill Street to South Main Street
Church Street	From Maple Street to Wyalusing Street
Grow Avenue	From the Montrose Borough line to Maple Street
Lake Avenue	From the Montrose Borough line to Prospect Street
South Main Street	From the Montrose Borough line to Church Street

§ 107-18. Closing of certain highways to certain vehicles

It shall be unlawful for any person to operate any vehicle or tractor, except a passenger vehicle, but not including any passenger vehicle drawing any trailer or towing any other vehicle, upon any of the portions of the highways described below; provided, however. That nothing herein shall prohibit the operation of any commercial vehicle or tractor upon any highway or portion thereof listed below where such operation thereon shall be necessary in order to pick up or deliver any goods, wares, merchandise or material from or to any premises located upon any such highway or portion thereof:

<u>Name of Highway</u>	<u>Limits</u>
------------------------	---------------

(Reserved)

§ 107-19. Vehicle weight limits on certain roads

It shall be unlawful for any person to operate any commercial vehicle or other tractor, tractor or tractor-trailer combination having a new weight in excess of that hereinafter prescribed upon any of the highways or portions thereof described below except for the purpose of making local deliveries:

<u>Name of Highway</u>	<u>Weight Limit</u>	<u>Location</u>
Prospect Street	3 ton	From Lake Avenue to Chenango Street
All Borough Streets	10 ton	Throughout Borough except Prospect Street

**ARTICLE III
Parking Regulations**

§ 107-20. Vehicles to be parked within marked spaces

Whenever a space shall be marked off on any highway for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

§ 107.21. Angle parking

No person shall park a vehicle upon any of the highways or parts thereof described below * except at the angle designated and only within the painted stall lines. On all highways or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

<u>Name of Highway</u>	<u>Side</u>	<u>Location</u>
Lake Avenue	North	From Prospect Street 250 feet toward Maple Street
Maple Street	[Repealed 4-7-86 by Ord. No. 86-2, approved 4-7-86]	
Maple Street	North	From Grow Avenue 112 feet toward High Street [Added 12-29-86 by Ord.No. 86-7, approved 12-29-86]
Mill Street	South	From Grow Avenue 100 feet toward High Street
Spruce Street	West	From Church Street 200 Feet toward Maple Street

§ 107.22. Parking prohibited at all times

No person shall park a vehicle at any time upon any of the highways or parts thereof described below:

<u>Name of Highway</u>	<u>Side</u>	<u>Location</u>
Cedar Street	South	From Cherry Street 156 feet toward Chestnut Street
Cherry Street	East	From Maple Street to Church Street
Chestnut Street	East	From 82 feet from Church Street toward Cedar Street for a distance of 35 feet
Church Street	North	From Spruce Street to Owego Street
Church Street	South	From Cherry Street east for 105 feet [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]
High Street	East	From Maple Street for 87 feet [Added 12-29-87 by Ord. No. 86-10, approved 12-29-87]
Jessup Street	East	From Grow Avenue south for 350 feet
Lathrop Street	North	From Grow Avenue to Lake Avenue
Maple Street	South	From Chestnut Street for a distance of 120 feet toward Cherry Street [Added 11-6-78 by Ord. No. 11-78, approved 11-6-78]

***NOTE: These locations are in addition to those provided by § 107-39.**

<u>Name of Highway</u>	<u>Side</u>	<u>Location</u>
Maple Street	South	From High Street to Church Street
Public Avenue	East	From 192 feet south of Maple Street south for a distance of 50 feet
South Main Street	West	From 183 feet south of the southern curbline of Church Street south for a distance of 157 feet
South Main Street [Added 12-6-10 by Ord. enacted 12-6-10]	East	Being the area starting at a point at the south edge of the driveway located at 300 South Main Street to a point 84 feet south

§ 107-23. Parking prohibited during certain times [Amended 11-6-78 by Ord. No. 11-78, Approved 11-6-78]

- A. No person shall park a vehicle on any highway within the borough or within two (2) feet of any highway pavement within the borough between the hours of 2:00 a.m. and 8:00 a.m. during the period of November 15 to April 1, inclusive, except the following highways:

<u>Name of Highway</u>	<u>Location</u>
Church Street	Between Spruce Street and Cherry Street
Public Avenue	Entire length
South Main Street	Between Church Street and Cemetery Street

- B. No person shall park a vehicle on the highway or within two (2) feet of the highway pavement between the hours of 2:00 a.m. and 6:00 a.m. on the following highways:

<u>Name of Highway</u>	<u>Location</u>
Church Street	Between Spruce Street and Cherry Street
Public Avenue	Entire length
South Main Street	Between Church Street and Cemetery Street

- C. As indicated by traffic signs, no person shall park a vehicle on the north end of the borough parking lot located between Church Street and Beech Street on even-numbered days or on the south end of said lot on odd-numbered days between the hours of 12:01 a.m. and 6:00 a.m. during the period of November 15 to April 1, inclusive.

- D. As indicated by traffic signs, no person shall park a vehicle on the north side of the lower-level portion of the borough parking lot located west of Public Avenue and being adjacent to Spruce Street on even-numbered days or on the south side of said lot on odd-numbered days between the hours of 12:01 a.m. and 6:00 a.m. during the period of November 15 to April 1, inclusive. [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]

- E. As indicated by traffic signs, no person shall park a vehicle within the upper portion of the borough parking lot located west of Public Avenue between the hours of 2:00 a.m. and 6:00 a.m. [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]
- F. No person shall park a vehicle on the west side of the highway on Lathrop Street or within two (2) feet of the highway pavement on such west side from a point on the north edge of the right-of-way of the old railroad north three hundred thirty (330) feet from 7:00 a.m. to 4:00 p.m. [Added 12-6-82 by Ord. No. 82-2, approved 12-6-82]

§ 107.24. Parking time limited [Amended 4-4-83 by Ord. No. 83-2, approved 4-4-83]

No person shall park a vehicle or allow the same to remain parked upon any of the highways or parts of highways described below * between the hours specified for longer than the time indicated below:

<u>Name of Highway</u>	<u>Side</u>	<u>Hours</u>	<u>Time Limit (hours)</u>	<u>Location</u>
Chestnut Street [Amended 3-3-86 by Ord. No. 86-1, approved 3-3-86]	Both	8:00 am to 5:00 pm	2	Church St. to Cedar St.
Maple Street	North	8:00 am to 5:00 pm Except Sundays and Holidays	2	Chestnut St. to Grow Ave.
Monument Square [Added 12-29-86 by Ord. No. 86-9, approved 12-29-86]	East	All	1	Maple St. for 140 feet in front of library

§ 107-25. Special purpose parking zones

The following are hereby established as special purpose parking zones, and it shall be unlawful for any person to park any vehicle or tractor or to allow the same to remain parked in any such zone except as specifically provided for such zone:

<u>Highway Name</u>	<u>Side</u>	<u>Hours</u>	<u>Location</u>
Maple Street	South	Sundays only	High Street to Church Street

§ 107.25.1 through 107-25.4 (Reserved)

***NOTE: These are in addition to those provided for in § 107-39.**

§ 107-25.5. Assigned parking areas [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]

As designated by resolution of the Borough Council and as indicated by traffic signs, the area at the north end of the upper level borough parking lot located west of Public Avenue and directly accessed via Maple Street shall be restricted to the parking of those vehicles prominently displaying in the front windshield a valid permit authorizing parking of the vehicle in the assigned parking area, said permit to be issued and controlled by the Susquehanna County Commissioners or their agent. Vehicles parked in this area shall be subject to all provisions of this chapter.

§ 107-26. Borough parking lot

No person shall park or permit a vehicle to remain continuously in any borough parking lot for a period of more than seventy-two (72) hours at any one (1) time.

§ 107-27. Parking of commercial motor vehicles

- A. No person shall park or stand a commercial motor vehicle exceeding a gross registered weight of seven thousand (7,000) pounds on the highways described below unless the operator thereof is in the driver’s seat or unless the vehicle is blocked as defined herein.

<u>Name of Highway</u>	<u>Location</u>
Public Avenue	From Church Street to Maple Street

- B. As used in this section, the following terms shall have the meanings indicated:

BLOCKED –

- 1) A vehicle being parked diagonally against a curb in such a manner that, in the event of failure of all mechanical restraints within the vehicle, the curb will prevent movement of the vehicle from the parking position; or
- 2) A vehicle being parked with one (1) or more safety checks, designed especially for the purpose, being positioned against a rear wheel so that in the event of failure of all mechanical restraints within the vehicle, the vehicle will not move from the parking position.

COMMERCIAL MOTOR VEHICLE - Any motor vehicle designed for carrying freight or merchandise; provided, however, that a motor vehicle originally designed for passenger transportation to which has been added a removable-box body without materially altering said motor vehicle when owned and used by a farmer shall not be deemed a “commercial motor vehicle” for the purpose of this section, and further provided that any motor vehicle of the bus type, operated under contract with or owned by any school district, private school or parochial school of this commonwealth for the transportation of school children or children between their homes and Sunday school shall be deemed a “commercial motor vehicle” and further provided that a suburban motor vehicle, as defined in this section, shall not be deemed to be a “commercial motor vehicle” for the purpose of this section regardless of the purpose for which the vehicle shall be used.

SUBURBAN MOTOR VEHICLE – Every passenger motor vehicle with a convertible or interchangeable body usable for both passenger and commercial purposes, including motor vehicles commonly known as suburban, station or depot wagons.

§ 107-27.1 through § 107-27.4. (Reserved)

§ 107-27.5. Restriction of free movement. [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]

No person shall park or permit a vehicle to remain on any highway or part of highway within the borough or upon any borough parking lot in such a manner as to interfere, restrict or impede the free movement of traffic upon this highway or lot.

**ARTICLE IV
Metered Parking**

§ 107-28. Definitions

As used in this Article the following terms shall have the meanings indicated:

PARKING METERS – A mechanical device intended to assist public authorities in enforcing the provisions of this Article, such device limiting the time during which motor vehicles may be parked on any highway or parking lot within a parking meter zone.

PARKING METER SPACE – Any space within a parking meter zone adjacent to a parking meter which is duly designated for the parking of a single motor vehicle by lines painted or otherwise durably marked upon the curb or the surface of the highway or parking lot adjacent to or adjoining a parking meter.

PARKING METER ZONE – Highways or portions thereof or borough parking lots, as designated in this Article, on or in which parking meters are installed, operated and used.

§ 107-29. Designation of parking spaces

The Borough Council is hereby authorized to provide for the marking off of individual parking spaces in the parking meter zones and areas designated and described in § 107-39, said parking spaces to be designated by lines painted or marked on the curbing or surface of the highway or area. At each space so marked off, it shall be unlawful to park any vehicle in such a way that said vehicle shall not be entirely within the limits of the space so designated.

§ 107-30. Installation of meters; operation

- A. In said parking meter zones, parking meters shall be installed upon the curb, sidewalk or pavement immediately adjacent to the parking spaces provided for in § 107-29. The Borough of Montrose shall be responsible for the regulation, control, operation, maintenance and use of such parking meters.

- B. Each device shall be so set to display a signal showing legal parking upon the deposit of the appropriate coin for the period of time hereinafter prescribed. Each device shall be so arranged that upon the expiration of the lawful time limit, it will indicate by a proper, visible signal that the lawful parking period has expired, and, in such case, the right of such vehicle to occupy such space shall cease and the operator, owner, possessor or manager thereof shall be subject to the penalties hereinafter provided.

§ 107-31. Manner of parking

- A. When a parking space in any parking meter zone is parallel with the adjacent curb or sidewalk, any vehicle parked in such parking space shall be parked so that the foremost part of such vehicle shall be nearest to the parking meter; provided, however, that where double parking meters are installed upon one (1) standard so as to serve two (2) parking spaces, any vehicle parked in the space just beyond the parking meters shall be parked so that the rear bumper of such vehicle shall be nearest to the parking meters. When a parking space in any parking meter zone is diagonal to the curb or sidewalk, any vehicle parked in such parking space shall be parked with the foremost part of such vehicle nearest to such meter.
- B. Where lines or markings are painted, or placed upon the curb, sidewalk, highway and/or paved surface adjacent to each parking meter providing for parking at an angle and not parallel or perpendicular to the curb, it shall be unlawful for the operator of any motor vehicle to cross the center line of the highway to enter or leave said parking area.

§ 107-32. Deposit of coins [Amended 11-6-78 by Ord. No. 11-78, approved 11-6-78]

When any vehicle shall be parked in any space adjacent to which a parking meter is located in accordance with the provisions of this Article, the operator shall, upon entering the said parking space, assure that said meter is in operation either by immediately depositing or causing to be deposited such coin or coins of the United States as are required for such parking meter and as are designated by the instructions on the parking meter, or by utilizing unexpired time already on said meter, and failure to assure such operation shall constitute a breach of this Article and shall subject each person to the penalty prescribed hereafter. When said, meter is in operation, the parking space may be lawfully occupied by such vehicle during the periods of parking time which have been prescribed for the zone in which said parking space is located and for which a coin or coins is or are deposited, as indicated on the parking meter. If said vehicle shall remain parked in any such parking space beyond the parking time limit so fixed for such parking space, the parking meter shall, by its violation signal, dial or pointer, indicate such illegal parking, and, in that event, such vehicle shall be considered as parked overtime and beyond the period of legal parking time. The parking of a vehicle overtime or beyond the period of legal parking time in any such space where any such parking meter is located shall be a violation of this Article and punishable as hereinafter set forth.

§ 107-33. Violations

It shall be unlawful and a violation of the provisions of this Article for any person:

- A. To cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any parking meter zone, as herein described, or to deposit in any parking meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter zone. Each hour of overtime violation shall constitute a separate violation.
- B. To permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while said meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space.
- C. To park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings.
- D. To deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Article.
- E. To deposit or cause to be deposited in any parking meter any slug, device or metal substance or other substitute for lawful coins.
- F. To park or permit the parking of any vehicle in any parking meter space where the meter does not register lawful parking.

§ 107-34. Report of violations; citations

It shall be the duty of the police officers of the Borough of Montrose and such other persons as may be designated and authorized by the Borough of Montrose, acting in accordance with instructions issued by the Mayor, to report:

- A. The number of the parking meter which indicates that the vehicle occupying the parking space and adjacent to such parking meter is or has been parked in violation of any of the provisions of this Article.
- B. The date and hour of such violation.
- C. The state license number of such vehicle.
- D. The length of time during which such vehicle is parked in violation of any of the provisions of this Article at the time of his inspection.
- E. Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

§ 107-35. Collection of coins from meters [Amended 12-3-79 by Ord. No. 79-4, approved 12-3-79]

It shall be the duty of the Borough of Montrose to designate some proper person or persons to make regular collections of the moneys deposited in said meters. Such moneys shall be accounted for under the direction of the Borough Treasurer and shall be deposited in the general fund of the borough.

§ 107-36. General provisions

- A. Temporary suspension of provisions. The provisions of this Article may temporarily be suspended by the Mayor, and he may prescribe temporarily such other rules and regulations as traffic conditions may require.
- B. Suspension of provisions on designated days. The use of parking meters throughout the Borough of Montrose is hereby dispensed with on Saturdays, Sundays and the following federally observed holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. **[Amended 12-3-79 by Ord. No. 79-4, approved 12-3-79; 12-29-86 by Ord. No 86-12, approved 12-29-86]**
- C. Erection of signs. The Chief of Police is authorized to erect or cause to be erected appropriate signs notifying the operators of motor vehicles of the provisions of this Article.
- D. The Borough Council may by resolution, for time to time, designate places upon and along highways in the borough where the provisions of Article IV, relating to metered parking, are suspended, provided that during the period of such suspension, the parking meters designated shall be covered by covers. **[Added 12-3-79 by Ord. No. 79-3, approved 12-3-79]**

§107-37. Hours of operation; time limits [Amended 12-29-86 by Ord. No. 86-12, Approved 12-29-86]

In the parking meter zones designated in § 107-39, parking is hereby limited to a period of time not in excess of that indicated in § 107-39 and upon the dial of the parking meters between 9:00 a.m. and 5:00 p.m. on Monday, Tuesday, Wednesday, and Thursday and between 9:00 a.m. and 8:00 p.m. on Friday of each week, except as provided in § 107-36B.

§ 107-38. Parking meter rates

The charges for use of the parking meter zones designated in § 107-39 shall be as follows:

- A. For zones with a maximum parking time of two (2) hours, the rate shall be five cents (\$0.05) for each unit of thirty (30) minutes. One (1) dime [ten cents (\$0.10)] may be deposited for sixty (60) minutes, and one (1) quarter [twenty-five cents (\$0.250)] may be deposited for a maximum of two (2) hours. In no case, shall coins be deposited so as to provide more than two (2) hours of parking time.

B. For zones with a maximum parking time of ten (10) hours, the rate shall be five cents (\$0.05) for each unit of thirty (30) minutes. One (1) dime [ten cents (\$0.10)] may be deposited for one (1) hour, one (1) quarter [twenty-five cents (\$0.25)] may be deposited for two and one-half (2 ½) hours and fifty cents (\$0.50) may be deposited for five (5) hours. In no case, shall coins be deposited so as to provide more than ten (10) hours of parking time.

§ 107-39. Designation of parking meter zones

Parking meter zones are hereby established upon the highways or parts of highways described below with maximum parking time limits as specified:

<u>Name of Highway</u>	<u>Side</u>	<u>Time Limit (hours)</u>	<u>Location</u>
Chestnut Street	East	10	From Maple St. to Church St.
Chestnut Street [Added 11-6-78 by Ord.No. 11-78, approved 11-6-78]	West	2	From Church St. to Cedar St.
Church Street [Amended 11-6-78 by Ord.No. 11-78, approved 11-6-78]	Both	2	From Cherry St. to Spruce St.
Lake Avenue	East	2	From Maple St. 388 feet east to the First intersecting roadway
Maple Street	Both	2	From Chestnut St. to Pine St.
Public Avenue	Both	2	From Church St. to Maple St.
South Main Street	Both	2	From Church St. to Cemetery St.
Lake Avenue [Amended 10-3-11 Added 4 meters]	West	2	From a point of 248 feet from Maple St. to a distance of 84 feet.

§§ 107-39.1 through 107-39.4 (Reserved)

§ 107-39.5. Designation of metered parking lots [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]

Metering of borough parking lots is hereby authorized and established in the parking lots located as described below:

Location of Parking Lot

South of Church Street, north of Beech Street

West of Public Avenue: upper level only

**ARTICLE V
Snow and Ice Emergencies**

§ 107-40. Declaration of emergency

In order to facilitate the movement of traffic and to combat the hazards of excessive snow and ice on the highways or portions of highways named in § 107-41 below, the Mayor, in his discretion, may declare an emergency due to such hazards.

§ 107-41. Parking prohibited on certain streets

- A. After any such emergency shall have been declared, it shall be unlawful, during the period of such emergency, for any person to park a motor vehicle or tractor or to allow the same to remain parked on any highway or portion thereof named in Subsection B below or to operate any motor vehicle or tractor on any such highway or portion thereof unless such vehicle or tractor shall be equipped with adequate equipment to provide sufficient traction to keep such vehicle or tractor in motion so that other traffic on such highways will not be blocked or seriously impeded.
- B. The highways or portions thereof to which the provisions of this Article shall be applicable during all periods of emergency declared, as provided in § 107-40, shall be as described below:

<u>Name of Highway</u>	<u>Limits</u>
(Reserved)	

§ 107-42. Placement of signs

- A. In order to assist the operators of motor vehicles and tractors in determining the highways affected by this Article, the Chief of Police shall place around the utility poles on the highways or portions thereof, as designated in § 107-41B, signs reading as follows:

SNOW
EMERGENCY
NO PARKING
VEHICLES
TOWED AWAY

- B. The Chief of Police may also, through radio, newspaper or other available media, disseminate information as to the existence of such emergency.

§ 107-43. Violations

- A. Any person who shall park a motor vehicle or tractor upon or along any of the highways or portions thereof listed in § 107-41B at any time during a period of emergency declared, as provided in § 107-40, shall be guilty of a violation of this Article.

ARTICLE VI
Removal and Impounding of Illegally Parked Vehicles

§ 107-44. Authorization for removal and impoundment [Amended 12-13-79 by Ord. No. 79-4, approved 12-3-79]

The Police Department of the borough is hereby authorized to tow or have towed any vehicle, the parking of which interferes with snow plowing or snow removal or the maintenance of the surface or subsurface of any highway within the borough or of any borough parking lot. Further, the Police Department is hereby authorized to remove and impound or to order the removal and impounding of any vehicle parked on any of the streets, highways or public property in the borough in violation of any provision of the law or of any ordinance of the borough; provided, however, that no such vehicle shall be removed or impounded except in strict adherence to the provisions of the Article.

§ 107-44.1 through 107-44.4 (Reserved)

§ 107-44.5. Borough impoundment area [Added 12-3-79 by Ord. No. 79-4, approved 12-3-79]

The borough may designate, by resolution, one (1) or more areas located upon property owned or controlled by the borough to serve as an impoundment area. The operation of such impoundment area shall be exempt from the provisions of § 107-46.

§ 107-45. Approved storage garages designated

The following garages located in the borough are hereby designated as approved storage garages or pounds for the storage of such impounded vehicles:

Name of Garage

Vitale Ford

Al Tilley Chevrolet

C & F Motors

§ 107-46. Bonding of garages

Every such approved storage garage or pound shall be bonded in the amount of ten thousand dollars (\$10,000.) for the indemnifying of the owner of every such impounded vehicle against the loss thereof or injury or damage thereto while in the custody of such poundkeeper.

§ 107-47. Towing and storage charges [Amended 12-3-79 by Ord. No. 79-4, approved 12-3-79]

The towing charge to be collected shall be limited to twenty-five dollars (\$25), unless modified by resolution of Council, and the storage charges shall be limited to three (\$3) for the first day and three dollars (\$3) for each additional day.

§ 107-48. Notification of removal and impounding

Within twelve (12) hours from the time of removal of any vehicle under authority granted by this Article, notice of the fact that such vehicle has been impounded shall be sent by the Chief of Police of the borough to the owner of record of such vehicle. Such notice shall designate the place from which such vehicle was removed, the reason for its removal and impounding and the pound in which it shall have been impounded.

§ 107-49. Payment of charges; protests

- A. The payment of any towing and impounding charges authorized by this Article shall, unless such payment shall have been made under protest, be final and conclusive and shall constitute a waiver of any right to recover the money so paid.
- B. In the event that any towing and impounding charges so imposed shall be paid under protest, the offender shall be entitled to a hearing before a Magistrate or court of record having jurisdiction, in which case such defendant shall be proceeded against and shall receive such notice as is provided in the Vehicle Code in other cases of summary offenses and shall have the same rights as to appeal and waiver of hearing.

§ 107-50. Record of vehicles removed and impounded

The Chief of Police shall keep a record of all vehicles impounded and shall be able at all reasonable times to furnish the owners or the agents of the owners thereof with information as to the place of storage of such vehicles.

§ 107-51. Liability of vehicle owner for fine or penalty

The payment of towing and storage charges authorized by this Article shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for violation of any law or ordinance on account of which such vehicle was removed and impounded.

§ 107-52. Restrictions upon removal of vehicles

No vehicle shall be removed under the authority of this Article if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

**ARTICLE VII
Repeal; Penalties****§ 107-53. Repeal of previous ordinances; effect**

- A. All previous ordinances of the Borough of Montrose pertaining to the regulation of traffic and parking are hereby repealed.

- B. The repeal of ordinances provided for in Subsection A above shall not affect or prevent the prosecution or punishment of any person for any act done or liability incurred in violation of any ordinance or regulation in force immediately prior to the taking effect of this chapter.
- C. The provisions of this chapter, insofar as they are the same as those of ordinances and regulations in force immediately prior to the enactment of this chapter, are intended as a continuation of such ordinances and regulations and not as new enactments.

§ 107-54. Violations and penalties

- A. Violations generally. Unless another penalty is expressly provided by the Pennsylvania Vehicle Code or except as hereinafter specified, every person convicted of a violation of a provision of this chapter, or any supplement thereto, shall be liable to a penalty of not more than twenty-five dollars (\$25) and costs of prosecution.
- B. Overtime parking violations. Any persons violating the provisions of this chapter by allowing a vehicle to remain parked beyond the time limit set for legal parking in §§ 107-24, 107-26, and 107-39 of this chapter shall, upon conviction, be guilty of a summary offense and be sentenced to pay a fine of not less than three dollars (\$3) nor more than fifty dollars (\$50) and costs of prosecution; provided, however, that if the notice of violation is returned to the Chief of Police or deposited in an authorized fine collection box within seventy-two (72) hours from the time when the notice was given and the sum of one dollar (\$1) is paid, such payment shall be deemed full satisfaction of such violation.

ZONING

Chapter 112

ZONING

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HISTORY: Adopted by the Council of the Borough of Montrose 2-6-78 as Ord. No. 78-1, approved 2-6-78. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission – See Ch. 24.

Building Construction – See Ch. 43.

Code Enforcement – See Ch. 47.

Mobile homes and mobile home parks – See Ch. 73.

Subdivision and land development – See Ch. 98.

ARTICLE I General Regulations

§ 112-1. Short title

This chapter shall be known and cited as the “Borough of Montrose Zoning Ordinance”.

§ 112-2. Conformance required

No building, structure or land shall be used or occupied and no building or part thereof shall be erected, moved, enlarged or structurally altered unless in conformity with the regulations of this chapter, except that any existing building or use may be continued, maintained or repaired.

§ 112-3. Purpose

This chapter is hereby adopted in accordance with a Comprehensive Plan which is designed to promote public health, safety, morality and the general welfare; encourage the most appropriate use of land; conserve and stabilize the value of property; provide adequate open spaces for light and air; and to prevent the spread of fire, prevent undue concentrations of population and lessen congestion of streets and highways.

§ 112-4. Community development objectives established

Pursuant to the Pennsylvania Municipalities Planning Code¹, as amended, the following community development objectives have been established:

- A. To stimulate economic growth within the community.
- B. To conserve and promote the public health, safety and general welfare of the present and Future inhabitants of the Borough of Montrose.

¹ Editor’s Note: See 53 P.S. § 10101 et. seq.

- C. To provide for a variety of dwelling types and to provide housing opportunities for a side cross section of the population.
- D. To sustain a high quality of neighborhoods and to protect individual property values.
- E. To foster, provide and maintain a sound tax structure.
- F. To preserve the natural, scenic, historic and aesthetic character of Montrose, while safeguarding it against adverse environmental impacts and controlling and regulating its orderly growth, development and maintenance.

§ 112-5. Interpretation; effect on other legislation

- A. In the interpretation and the application of the provisions of this chapter, such shall be limited to the minimum requirements for the promotion of the health, safety, morals and general welfare.
- B. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes greater restrictions upon the use of buildings or premises or upon the height or bulk of a building or requires larger open spaces, the provisions of this chapter shall prevail.

§ 112-6. Supplemental legislation

- A. Planning Code. This chapter hereby adopts Articles I, VI, IX and X of the Pennsylvania Municipalities Planning Code,¹ Act 247 of 1968, as amended by Act 93 of 1972 and Acts 194 and 272 of 1974, hereinafter referred to as the Planning Code. Where any portion of the Planning Code is in conflict with any portion of this chapter, that portion of the Planning Code shall prevail.
- B. Codes. The existence of a Building Code, a Property Maintenance Code, a Plumbing Code, a Fire Prevention Code, and Electrical Code and a Code Enforcement Ordinance with existing and future amendments is hereby acknowledged.²

§ 112-7. Effect of prior actions; conflicts

- A. Saving clause. Nothing in this chapter hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or existing under any act or ordinance hereby repealed or cited in this chapter, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

¹ Editor's Note: See 53 P.S. § 10101 et seq.

² Editor's Note: See Ch. 43, Building Construction, Ch. 86, Property Maintenance, Ch. 84, Plumbing, Ch. 59, Fire Prevention, Ch. 53, Electrical Standards, and Ch. 47, Code Enforcement, respectively.

- B. Conflicts. In any case where a conflict exists between any portion of this chapter and any other portion of this chapter or of any other ordinance, the more restrictive portion shall have precedence and shall prevail.

§ 112-8. Repealer

All prior ordinances or parts of ordinances inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency. In addition, the provisions of the former Zoning Ordinance, adopted March 1, 1965, and all amendments thereto are hereby specifically repealed in their entirety; provided, however, that such repeal will in no way serve to validate as a nonconforming building or use, as defined in this ordinance, any building or use of property which was unlawful under the provisions of any former zoning ordinance in effect for the Borough of Montrose; and provided further that should this chapter or any portion thereof be declared invalid for any reason, such declaration shall serve to make this repealer of no effect with regard to the provisions of said former zoning ordinance, corresponding to the provisions declared invalid, so that provisions of the former zoning ordinance shall be deemed in full force and effect.

ARTICLE II Definitions

§ 112-9. Word usage; terms defined

- A. Except where specified in the following definitions, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; and the words “occupied” or “used” shall include “arranged, designed, constructed, altered, converted, rented, leased or intended to be used”; the word “shall” is intended to be mandatory; and the word “abut” shall include the words “directly across from.”
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR STRUCTURE – A use or building structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal building.

ALLEY – A public or private way affording only secondary means of access to abutting property.

APARTMENT – A general term referring to a multifamily dwelling.

BOARD – The Zoning Hearing Board of the Borough of Montrose, hereinafter referred to as the “Board”.

BOARDINGHOUSE – A house at which board or board and lodging may be obtained for payment; the living accommodations offered to permanent lodgers or boarders, as distinguished from transient guests. **[Added 10-6-80 by Ord. No. 80-2, approved 10-6-80]**

BUILDING – Any structure having a roof supported by columns or walls, used for the shelter, housing or enclosure of persons, animals or property.

BUILDING HEIGHT – The vertical distance of a building, measured from the average level of the highest and lowest portion of the building site covered by the building to the ceiling of the uppermost story, unless otherwise specified in this chapter.

BUILDING, PRINCIPAL – A building in which is conducted the main or principal use of the lot on which it is situated.

COMMISSION – The Planning Commission of the Borough of Montrose.

CONDITIONAL USE – A special exception under the jurisdiction of the Montrose Borough Council. **[Added 5-7-84 by Ord. No. 84-1, approved 5-7-84]**

CONDOMINIUM – An ownership arrangement with the following characteristics:

- 1) The unit (the interior and associated exterior areas designated for use in the development plan) is owned by the occupant.
- 2) The unit may be any permitted type of structure.
- 3) All or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Pennsylvania Unit Property Act of July 3, 1963, P.L. 196,¹ and in accordance with provisions for open space, roads or other development features in this chapter and the Subdivision and Land Use Regulations.²

COUNCIL – The Borough Council of the Borough of Montrose.

DISTRICT or ZONE – A portion of the territory of the borough within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DWELLING – Any building, vehicle or portion thereof designed or used primarily as the residence or sleeping place of one (1) or more persons. The term “dwelling” shall not be deemed to include an automobile court, rooming house, tourist home, hotel, hospital or nursing home.

- 1) **DWELLING, SINGLE-FAMILY** – A detached building, designed for or occupied exclusively by one (1) family.

¹ Editor’s Note: See 68 P.S. § 700.101 et seq. This Act was repealed by Act of July 2, 1980, P.L. 286, except as to condominiums created prior to the effective date of said Act.

² Editor’s Note: See Ch. 98, Subdivision and Land Development

- 2) DWELLING, TWO-FAMILY – A detached or semi-detached building where not more than two (2) individual families or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.
- 3) DWELLING, MOBILE HOME – A vehicle, or part thereof, used for permanent living or sleeping quarters and standing on wheels or on rigid supports, except for a travel trailer, as defined herein, and containing not more than one (1) dwelling unit, but excluding prefabricated homes or sections thereof.
- 4) DWELLING, MULTIFAMILY – A building designed for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units. Such buildings shall consist of the following types:
 - a) LIMITED APARTMENTS – A multi-family dwelling containing three (3) to five (5) dwelling units and not exceeding two and one-half (2 1/2) stories in height.
 - b) ROW HOUSES – A multifamily dwelling containing three (3) to six (6) dwelling units, and not exceeding two and one-half (2 1/2) stories in height, having a solid masonry fire wall between each unit and individual separate access from the outside to each unit.
 - c) GARDEN APARTMENT – A multifamily dwelling containing six (6) or more dwelling units and not exceeding three (3) stories in height.
 - d) MID-RISE APARTMENT – A multifamily dwelling originally designed or altered for use primarily or exclusively as a residence for more than ten (10) dwelling units and being not less than four (4) stories in height.

DWELLING UNIT – One (1) or more rooms, including a kitchen or kitchenette and sanitary facilities, in a dwelling structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

ESSENTIAL SERVICES – Public utility facilities that do not require enclosure in a building, including gas, electrical, steam, telephone or water distribution systems and including related equipment, such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment.

EXCEPTION – A use which because of its unique characteristics requires individual consideration in each case by the Board and by the Commission before a zoning permit may be issued.

FAMILY – Either an individual or two (2) or more persons living together as a household in a dwelling unit.

GARAGE, PRIVATE PARKING – A building or portion thereof used for the storage of automobiles by the families' resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

GARAGE, PUBLIC PARKING – A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles.

HOME OCCUPATION – An activity for gain customarily carried on in a dwelling or in a building or structure accessory to a dwelling, such activity being clearly incidental and secondary to the use of the dwelling for residential purposes.

JUNK – Includes any automobile, truck or trailer, unless within the preceding twelve (12) months said automobile, truck or trailer did have a valid inspection sticker; and mined, processed and manufactured goods that are worn, deteriorated, discarded or obsolete as to be unusable in their existing condition, but may be subject to being dismantled and salvaged.

JUNKYARD – A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned. Packaged, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumberyards and places in yards for the use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment and the processing of used, discarded or salvaged materials as part of manufacturing operations.

LOT or ZONE LOT – A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter and having frontage on a public street.

- 1) **LOT, CORNER** – A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five degrees (135°).
- 2) **LOT, DEPTH** – The mean horizontal distance between the front and the rear lot lines.
- 3) **LOT LINES** – The property lines bounding the lot.
 - a) **LOT LINE, FRONT** – The property boundary line separating the lot from the street legal right-of-way line.
 - b) **LOT LINE, REAR** – The lot line opposite and most distant from the front lot line.
 - c) **LOT LINE, SIDE** – Any lot line other than a front or rear lot line. A “side lot line” separating a lot from a street is called a “side street lot line”.
 - d) **LOT LINE, STREET OR ALLEY** – A lot line separating the lot from a street or alley.

- 4) LOT WIDTH – The average horizontal distance, as measured between the side lot lines and parallel to the front lot line.
- 5) LOT AREA – The computed area contained within the lot lines.

MOTEL – A roadside hotel providing transients with lodging, typically in bedrooms which are united under one (1) roof, but have individual entrances and with nearby parking space. **[Added 10-6-80 by Ord. No. 80-2, approved 10-6-80]**

NONCONFORMING LOT – Any zone lot which does not conform to the minimum width, depth or area dimensions specified for the district in which said lot is situated.

NONCONFORMING USE OR BUILDING – A building, structure or use existing at the effective date of this chapter, which does not conform to the requirements of this chapter but which is otherwise legally existing; or a building, structure or use, planned and with construction started in compliance with existing laws prior to the effective date of this chapter and completed within one (1) year following the effective date of this chapter and which does not conform to the use regulations of the district in which it is located. No existing use or building shall be considered a “nonconforming use” if only the yards, area, height, coverage dimensions or off-street parking or loading do not conform to the regulations of this chapter.

NURSING HOME – Any governmentally licensed premises containing sleeping rooms, used by persons who are lodged and furnished with meals and nursing care.

PARKING AREA, PRIVATE – An open area for the same uses as a private garage.

PARKING AREA, PUBLIC – An open area, other than a street or other public way, used for the parking of vehicles and available to the public, whether for a fee, free or as an accommodation to clients or customers.

PERMITTED USE – Any use which does not require special action by the Board and by the Commission before a zoning permit may be granted by the Zoning Officer.

PERSON – Any natural person, association, partnership, firm, corporation, society or club, whether profit or nonprofit.

PROFESSIONAL OFFICE – The use of office and related space for such professional services as are provided by a physician, dentist, optometrist, clergyman, lawyer, teacher, author, realtor, insurance agent, accountant or other professions of like character.

RIGHT-OF-WAY – Any road, street, alley, sidewalk, passageway, porch or entrance intended, regardless of ownership, to serve as an area to be utilized by the general public, either vehicular or pedestrian, provided that this area is not enclosed within the main sidewalls and roof of a structure.

ROOMING HOUSE – A house in which lodgings are let, especially a house other than an inn or motel. **[Added 10-6-80 by Ord. No. 80-2, approved 10-6-80]**

SIDEWALK – A passageway for pedestrians along the side of a street.

SIGN, ADVERTISING – A sign which directs attention to a business, commodity, service or entertainment which is conducted, sold or offered elsewhere than upon the premises where such sign is located.

SIGN, BUSINESS – A sign which identifies a business or profession conducted; or a commodity, service or entertainment sold or offered upon the premises where such sign is located.

SIGN, GROSS SURFACE AREA OF – The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. The “gross surface area” of any multiple-face sign shall include the sum of all faces, except in the case of a double-face sign with the two (2) faces opposite each other, then only one (1) face shall be included in the computation of “gross surface area”.

STORY – That portion of a building which is included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and ceiling next above it.

- 1) **STORY, HALF** – A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.
- 2) **STORY, FIRST** – The lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

STREET – A public or private thoroughfare which affords the principal means of vehicular access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other such thoroughfare, except an alley.

STRUCTURE – Any building or facility constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including stationary and portable carports, swimming pools and fences. **[Amended 12-2-85 by Ord. No. 85-3, approved 12-2-85]**

STRUCTURAL ALTERATION – Any change in the structural members of a building, such as walls, columns, beams or girders, except for repairs or maintenance, or any addition to any structure.

SWIMMING POOL – Any excavation or enclosure of other than unprocessed earthen materials, which is intended or utilized for the storage of water for bathing or swimming purposes, in which the depth of water stored therein exceeds two (2) feet.

TRAVEL TRAILER – A vehicle, less than thirty (30) feet in length and customarily used for temporary living or sleeping purposes and designed to be transported on directly attached wheels.

YARD – An open space, as may be required by this chapter, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as herein permitted.

- 1) **YARD, FRONT** – An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this chapter.
- 2) **YARD, SIDE** – An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this chapter.
- 3) **YARD, REAR** – An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this chapter.

VARIANCE – The Board’s authorized departure from the text of this chapter in direct regard to a hardship peculiar to an individual lot, in accordance with the procedures set forth in this chapter.

ZONING OFFICER – The administrative officer charged with the duty of enforcing the provisions of this chapter, or a duly authorized deputy.

ARTICLE III Districts; Map; Boundaries

§ 112-10. Districts established

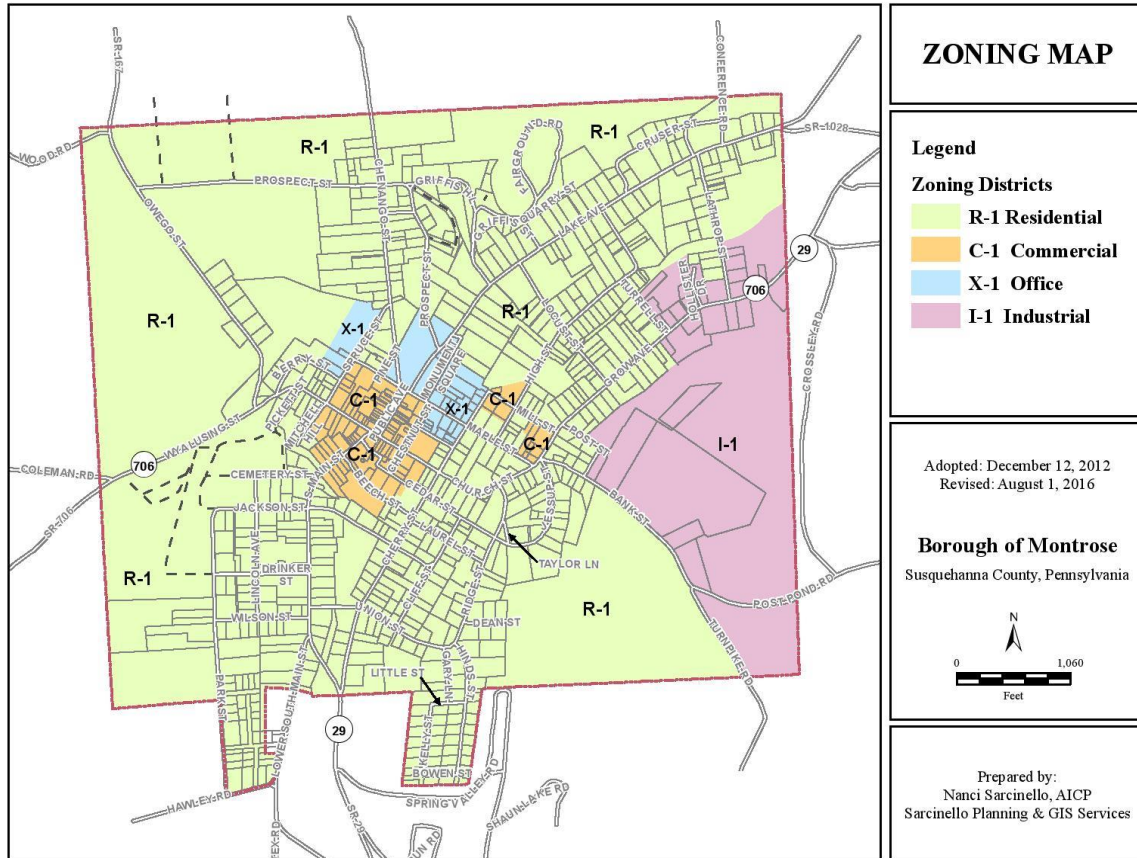
The Borough of Montrose is divided into the following districts:

- R-1 Residential
- C-1 Commercial
- I-1 Industrial
- M-1 Medical
- D-1 Redevelopment
- X-1 Office, Institutional, Professional

[Amended 12-12-12; M-1 and D-1 are no longer valid, changed to C-1, adopted 12-12-12]

§ 112-11. Zoning Map [Revised 8-1-16]

The location and boundaries of these districts are established as shown on the attached Zoning Map of the Borough of Montrose, dated December 12, 2012, revised August 1, 2016. The Zoning Map is hereby made a part of this chapter, together with all future notations, references and amendments.



§ 112-12. Interpretation of boundaries

If uncertainty exists as to the boundary of any district shown on the Zoning Map, the Zoning Hearing Board shall determine the location of such boundary.

**ARTICLE IV
 District Regulations**

§ 112-13. Basic regulations established

The basic regulations governing the use of land, the size of lots, yards and buildings within each Zoning District are established in this Article. For certain specific uses or exceptional situations, these basic regulations are supplemented by other provisions of this chapter.

§ 112-14. Use of land

Regulations governing the use of land within the various zoning districts shall be as set forth in Schedule I.¹

§ 112-15. Size of lots, yards and buildings

Regulations governing the size of lots, yards and buildings in the various zoning districts for permitted uses shall be as set forth in Schedule II.²

§ 112-16. Permitted uses

Uses listed as permitted uses in Schedule I³ shall require no special action by the Board or by the Commission before a zoning permit may be granted by the Zoning Officer.

§ 112-17. Exceptions

Uses listed as exceptions in Schedule I⁴ shall require individual consideration in each case because of their unique characteristics. Such exceptions may be permitted only upon authorization by the Board, subject to certain conditions and safeguards, as provided for herein and after review by the Commission.

§ 112-18. Use Classes

Use classes are hereby established as shown in Schedule I.⁵ The specific uses included in each use class are outlined below. None of these uses shall be permitted in any district if they are to be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable, fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, dirt, air or other form of pollution; or electrical, glare or other disturbance which will adversely affect the surrounding area or premises.

- A. Use Class 1, residential: includes single-family detached and two-family dwellings
- B. Use Class 2, light commercial: includes retail business establishments, customer service establishments, commercial recreation entertainment establishments and commercial education establishments serving the entire borough. Such establishments shall be carried on in a completely enclosed building, except for off-street parking and loading facilities and auto service stations.
 - 1) Retail business establishments include shops selling food, drugs, cigars, candy, clothing and clothing accessories, newspapers, books, stationery, dry goods,

¹ Editor's Note: Schedule I is included at the end of this chapter.

² Editor's Note: Schedule II is included at the end of this chapter.

³ Editor's Note: Schedule I is included at the end of this chapter

⁴ Editor's Note: Schedule I in included at the end of this chapter.

⁵ Editor's Note: Schedule I in included at the end of this chapter.

hardware, paint, variety goods, household goods and appliances, flowers, agricultural nurseries and greenhouses, package liquor, photo supplies, garden supplies, artist and hobby supplies and sporting goods, specialty and gift items, furniture and office supplies.

- 2) Customer service establishments include shops engaged in the repair of household, clothing and appliance items; barber and beauty shops; tailor shops; pick-up stations and self-service establishments for the dry cleaning and laundering of clothes; business offices; eating and drinking establishments; gymnasiums and physical health salons; photographic studios; medical centers; banks and financial institutions; hotels and motels; auto supply stores; auto service stations; funeral homes; rooming houses; and boardinghouses. **[Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80]**
 - 3) “Commercial recreation and entertainment establishments” include theaters, cultural establishments, bowling alleys, skating rinks, billiard parlor, social halls, clubs and lodges.
 - 4) “Commercial education establishments” include schools for the study of business, technical trades, art, music, dancing and photography.
- C. Use Class 3, heavy commercial and limited industrial: includes heavy commercial and limited industrial uses serving the entire borough.
- 1) Heavy commercial uses
 - a) Heavy commercial uses, which shall be carried on in a completely enclosed building, except for off-street parking and loading facilities, include wholesale businesses, storage and warehousing establishments, truck and freight terminals, delivery and distribution centers, wholesale produce and meat markets, mechanical and vehicle equipment repair establishments, dry-cleaning and dyeing plants, carpet and rug cleaning establishments, laundries, sign painting, automatic car washes, blueprinting, graphic reproduction shops, printing and publishing establishments, radio and television studios and transmission or receiving towers, animal hospitals and veterinary clinics and animal kennels.
 - b) Heavy commercial uses which do not require complete or partial enclosure in a building include building materials and fuel storage, new and used machinery storage and sales, vehicle and trailer sales and storage, farm equipment and construction, machinery establishments, monument works and auto service stations.
 - 2) Limited industrial uses which shall be operated by fewer than fifty (50) employees and which shall be carried on in a completely enclosed building, except for off-street parking and loading facilities, include woodworking, furniture and upholstery shops, machine and sheet metal shops, welding and electrical shops, plumbing and other similar shops.

- D. Use Class 4, general industrial; includes general industrial uses which shall be carried on in a completely enclosed building and which include the storage, manufacture, assembly, packing or testing of products from raw materials and from other previously prepared materials.
- E. Use Class 5, customary accessory uses and essential services:
- 1) Accessory uses which are customarily subordinate to the principal use of a building located on the same lot, and those which serve a purpose customarily incidental to the use of the principal building shall be permitted in each district. Such uses allowed include home occupations, home gardening, keeping of household pets, nurseries and greenhouses, professional offices of persons residing on the premises, private garages or parking areas, signs, off-street parking and loading, temporary tract offices, travel trailers and buildings and other uses customarily appurtenant to other permitted uses or exceptions.
 - 2) Uses not permitted are the raising or keeping of livestock, poultry or other animals for any commercial purpose or the outdoor storage of equipment or refuse.
 - 3) This category also includes essential services for public utilities that do not require enclosure in a building, including gas, electrical, steam, telephone or water distribution systems and including related equipment, such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment. The utilities that apply should conform to the height regulations of the zoning district in which they are proposed.
- F. Use Class 6, mobile home parks: includes the development of mobile home courts planned as a unit.
- G. Use Class 7, apartments and conversions: includes the conversion of buildings or portions of buildings into dwellings; new multifamily dwelling structures.
- H. Use Class 8, related residential uses: includes any funeral home, nursing and convalescent homes, rooming houses, boardinghouses and nurseries for the day care of young children. **[Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80]**
- I. Use Class 9, appropriate public uses: includes public and quasi-public uses of a welfare, educational, religious, recreation and cultural nature and religious homes accessory to such uses.
- J. Use Class 10, medical services: includes hospitals, nursing homes, extended care units, doctors' offices, clinics, laboratories, direct supportive and similar services and parking facilities for vehicles.

- K. Use Class 11, office services: includes offices for business, professional, governmental, civic, social, fraternal, political and private clubs; lodges; religious and charitable organizations; libraries; medical and dental offices, clinics and laboratories; and customary accessory uses to the above.
- L. Use Class 12, light retail walk-in business establishments include shops selling clothing and clothing accessories, books, stationery, dry goods, flowers, photographer, photo studio, and photo supplies, artist, art and hobby supplies, specialty and gift items. **[Amended 9-5-95 by Ord. No. 95-2, approved 9-5-95]**
- M. Use class 13; light retail, walk-in and office services permitted single or two family, residential, light commercial, customary accessory uses and essential services, professional office. Conditions: Light retail, walk-in and office services are permitted subject to the following: **[Amended 4-5-99, by Ord. No. 9945, approved 4-5-99]**
- a) The business or services shall be carried on wholly within the building except that business such as photographers and outside salespeople will not be excluded.
 - b) The only external evidence of the business shall be a sign in conformance with sign regulations outlined in 112-28C.
 - c) No light retail business or office activity shall be permitted which alters the residential appearance of the area or creates an objectionable condition or any disturbance, which may adversely affect the premises or surrounding area.
 - d) Light retail business is considered a walk-in business and is therefore excluded from off-street parking requirements.
 - e) Each application for establishing a business in the C-2 Zone is to be submitted to Borough Council for approval after review and comment by the Borough Planning Commission.

Light walk-in business establishments include, but are not limited to, the following: Shop selling clothing and clothing accessories, books, stationery, dry goods, flowers, photography services and accessories, art and hobby supplies, specialty and gift items. Professional offices include doctors, dentists, insurance agents, tax services, and financial consultants.

§ 112-19. Regulations governing exceptions

- A. Exceptions enumerated in this chapter and in Schedule I¹ shall require individual consideration in each case and may be permitted only after review by the Commission and upon authorization by the Board.
- B. Exceptions shall comply with the provisions of this section and may be permitted by the Board subject to any additional conditions and safeguards which may be warranted by the character of the area in which such uses are proposed or by other special factors.

¹ Editor's Note: Schedule I is included at the end of this chapter.

C. An exception shall not cause substantial injury to the value of other property in the proximity of where it is to be located; shall conform to regulations applicable to the district where it is located; shall be compatible with adjoining development; shall provide adequate landscaping and screening; shall provide off-street parking and loading so as to minimize interference with traffic on the local streets and shall not jeopardize the public health, safety, welfare and convenience.

D. The following regulations shall apply to exceptions which are authorized by the Board.

- 1) Mobile home (Use Class 6). All mobile home parks or courts shall be located on tracts of land at least six (6) acres in size. Such mobile home parks shall comply with all the ordinances of the Borough of Montrose.
- 2) Apartments and conversions (Use Class 7).
 - a) All conversions shall have at least one (1) off-street parking space per dwelling unit, and each unit shall have adequate light, air, heating and plumbing facilities and shall have at least three thousand (3,000) square feet of lot area and six hundred (600) square feet of floor area for each dwelling unit, but no converted building shall have more than a total of four (4) dwelling units. All dwellings shall be served with public water and sewer facilities and all, except mid-rise apartments, shall have at least one and one-half (1 ½) off-street parking spaces per dwelling unit and shall comply with the following minimum requirements. Mid-rise apartments are hereby excepted from the above parking requirements.
 - b) Multifamily dwellings.

Regulations for Multifamily Dwellings

<u>Regulations</u>	<u>Limited Apartments or Row Houses</u>	<u>Garden Apartments</u>	<u>Mid-Rise Apartments</u>
Minimum lot size			
Area (square feet)	7,500	12,000	12,000
Width (feet)	75	100	80
Depth (feet)	100	120	100
Lot area per dwelling unit (square feet)	2,500	2,000	400
Minimum yards			
Front yard (feet)	25	25	10
Rear yard (feet)	30	30	10
Each unattached side	10	15	0
Maximum height number of stories (feet)	2 ½ 35	3 40	5 55

Maximum building coverage (percentage)	60	50	60
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- c) Mid-rise apartments shall be located only in a D-1 District and may include within the structure, but limited to not more than ten percent (10%) of the total floor area, retail business establishments or customer service establishments, as set forth in Use Class 2, or office services, as set forth in Use Class 11.
- 3) **[Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80]** Related residential uses (Use Class 8). Funeral homes, nursing and convalescent homes, rooming houses, boardinghouses, day nurseries, nursery schools, prekindergarten or other activities providing for the care of young children shall comply with the following:
- a) Except for a sign, there shall be no external evidence of any gainful activity.
 - b) Any such use shall have sufficient off-street parking to serve the anticipated number of users and employees and shall have suitable street access without causing congestion of traffic on local residential streets.
 - c) All such buildings shall conform to the minimum lot size, minimum yards, maximum height and maximum building coverage regulations specified in Schedule II¹ for Zone R-1.
- 4) Appropriate public uses (Use Class 9). Any appropriate public use permitted by the Board as an exception shall be appropriate to the character of the district in which it is proposed and to the area which it will serve. Such appropriate public uses shall have adequate access, shall provide off-street parking and loading, as specified herein, and shall comply with the following lot, yard and building regulations:
- a) Minimum lot size: ten thousand (10,000) square feet.
 - b) Minimum yards:
 - i. Front yard: twenty-five (25) feet.
 - ii. Rear yard: twenty (20) feet.
 - iii. Each side yard: fifteen (15) feet.
 - c) Maximum height:
 - i. Number of stories: three (3)
 - ii. Height in feet: forty (40)
 - d) Maximum building coverage: sixty percent (60%)

¹ Editor's Note: Schedule II is included at the end of this chapter.

§ 112-20. Conditional uses [Added 5-7-84 by Ord. No. 84-1, approved 5-7-84]

A conditional use shall require individual consideration and may be granted by the Borough Council after recommendations by the Planning Agency, pursuant to express standards and criteria set forth in this chapter.

ARTICLE V
Supplementary District Regulations

§ 112-21. Permitted deviations from regulations

The minimum lot, yard and height requirements of this chapter shall prevail in all cases, except as follows:

- A. Height limitations. District height limitations shall not apply to parapet walls extending not more than four (4) feet above the limiting height of the building, church spires, cupolas and domes, monuments, water towers, chimneys, smokestacks, silos, flagpoles, utility poles, radio, television and utility towers, masts and aerials.
- B. Front yard exception. When an unimproved lot is situated between two (2) improved lots, each having a principal building within twenty (20) feet of the side lot line of the unimproved lot, the front yard may be reduced to a depth equal to that of the greater front yard of the two (2) adjoining lots; provided, however, that it may not be reduced to below ten (10) feet and provided that no building shall be set closer than twenty-five (25) feet from the center of any street.
- C. Projections into yards. Projections into required yards shall be permitted as follows, except that in no case shall a structure or projection be located closer than seven (7) feet to any side or rear lot line or ten (10) feet to any front lot line:
 - 1) Bay windows, carports, fireplaces, fire escapes, chimneys, uncovered stairs and landings, balconies and cornices, canopies, eaves or other architectural features not required for structural support may project into the required front or rear yard not more than a total of three (3) feet.
 - 2) Porches may project into the required front and rear yards up to ten (10) feet.
 - 3) Patios may be located in the required side and rear yards not closer than seven (7) feet to any adjacent property line and may project into front yards up to ten (10) feet.

§ 112-22. Unique lots and building locations

- A. Two (2) or more buildings on a lot. Two (2) or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this chapter which would normally apply to each building if each were on a separate zone lot.
- B. Through lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the Commission shall decide which

- C. street will be considered as the front street. No principal structure shall be erected on the rear of the lot, except as specified in this chapter.
- D. Lots fronting on an alley. Individual lots, existing at the effective date of this chapter and fronting on an alley shall comply with all the requirements of this chapter and the district in which said lots are located.
- E. Side yard of a corner lot. The side yard of a corner lot which abuts a street shall be equal to the required front yard for that street.
- F. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding thirty (30) inches in height shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the maintenance right-of-way line of each street extended to a point and a line drawn between two (2) points, each located thirty (30) feet from the street intersection.

§ 112-23. Accessory structures

All accessory structures shall conform to the minimum yard regulations established heretofore, except as permitted below:

- A. Unattached structures accessory to residential buildings. Structures accessory to residential buildings which are not attached to a principal structure may be erected within the required side and rear yards of a principal structure, provided that they conform to the following:
 - 1) Maximum height: one and one-half (1 ½) stories or fifteen (15) feet in height.
 - 2) Distance from side lot line: not less than seven (7) feet from the side lot line, except in the case of corner lots, where the full side yard as specified above shall be maintained.
 - 3) Distance from rear lot line: no less than seven (7) feet from the rear lot line.
 - 4) Distance from principal structure: not less than ten (10) feet from a principal structure.
- B. Unattached structures accessory to nonresidential buildings. Such accessory structures shall comply with front and side yard requirements for the principal structure and shall have a minimum rear yard of at least ten (10) feet.
- C. Unattached structures accessory to residential use. **[Added 12-2-85 by Ord. No. 85-4, approved 12-2-85]**
 - 1) Front yard fences shall be no higher than four (4) feet and be constructed of split rail, picket or decorative iron work.
 - 2) Side and back property lines: maximum height of fence to be eight (8) feet; privacy fencing allowed.

§ 112-24. Home occupations

A home occupation shall conform to the following regulations:

- A. The home occupation shall be carried on wholly within the dwelling or other structure accessory thereto.
- B. The only external evidence of the home occupation shall be a sign not exceeding one and one-half (1 ½) square feet in area.
- C. The home occupation shall be carried on only by the members of the immediate family residing in the dwelling, who may not employ more than two (2) additional nonresident persons to assist in the conduct of said home occupation.
- D. Home occupations shall not include the following: animal hospitals, pet shops, commercial stables, kennels, restaurants or tourist homes, rooming, boarding or lodging houses for more than two (2) persons.
- E. No exterior storage or merchandise, materials, equipment or supplies shall be permitted.
- F. No external alterations, additions or changes to the structure shall be permitted to accommodate or facilitate the home occupation.
- G. The floor area devoted to the home occupation shall not exceed twenty-five percent (25%) of the ground floor area of the principal residential structure or four hundred (400) square feet, whichever is less.
- H. No home occupation shall be permitted which alters the residential appearance of the area or creates any objectionable condition or any disturbance which may adversely affect the surrounding area or premises.

§ 112-25. Private parking areas and garages

Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accordance with this Article. Said parking areas may be located in any required front, side or rear yard. Accessory garages shall conform to requirements for accessory structures.

§ 112-26. Home gardening, nurseries and greenhouses

Home gardening and accessory structures used for agricultural nurseries or as greenhouses are permitted in residential area, provided that they shall not include the outdoor storage of equipment or supplies or refuse.

§ 112-27. Refuse

The storage of refuse, waste or garbage exterior to a structure for a period of more than twenty-four (24) hours is hereby prohibited, except that the use of metal storage bins, commercially designed and manufactured specifically for the mechanized handling of such materials, shall be permitted.

§ 112-28. Signs

- A. General. Business and advertising signs are prohibited except as herein provided.
- B. Business and advertising signs. One (1) or more business or advertising signs in the commercial and industrial districts are permitted, provided that such signs shall not have a combined gross surface area in square feet exceeding two (2) times the frontage of the lot on which they are located, and in no case, shall any single sign exceed two hundred (200) square feet. In residential districts, existing business or advertising signs shall not be enlarged or altered, but may be maintained.
- C. Business signs. Signs that primarily identify a business accessory to nonresidential uses located in R-1 or X-1 Districts are permitted, provided that they do not exceed ten (10) square feet in size. The number of signs shall be restricted to one to each property or dwelling unit to which it pertains, except that properties located on corner lots may have one (1) sign facing each street.
- D. Location of signs. Permitted signs may be located only in any required yard or on a structure wall and shall conform to the height limitations of the district in which they are located. Signs in any district shall not project by more than twelve (12) inches into or over any public right-of-way, sidewalk or street, nor from the face of the building by more than twelve (12) inches.
- E. Illumination. No illuminated sign shall create excessive glare or brightness which may adversely affect abutting properties or create a nuisance or hazardous condition. Flashing, rotating or moving signs or signs designed to provide the effect of motion, movement or flashing are prohibited.
- F. Temporary signs. Any sign of a temporary nature, such as those advertising civil, social, political, religious or like activities or functions, including signs designed to advertise one (1) or more political candidates, shall be permitted, provided that the sign is removed by the installer or those responsible for the erection of such sign within ten (10) days after the event on the sign occurs, provided that no such sign shall remain erected for more than sixty (60) days. The advertising sign of any owner, realtor or agent indicating that any specific piece of real estate is for sale, lease or rent, provided that the sign shall be posted upon the same piece of real estate, shall be considered a temporary sign and is permitted. However, such sign shall include a notice indicating the zoning district in which said real estate is included, such notice being provided by the borough at no cost to the property owner, realtor or agent. The design, size and material of said notice shall be as determined by the borough.

§ 112-29. Off-street parking and loading

- A. Off-street parking. Off-street parking spaces shall be provided as set forth in the following table whenever any building is erected or enlarged except in a C-1 District, where no off-street parking facilities are required. Such spaces shall have an area of at least two hundred (200) square feet and shall have adequate and well-designed ingress and egress and shall be located on the same lot as the use to which they are accessory or within a radius of four hundred (400) feet therein.

Regulations of Off-Street Parking Spaces

<u>Type of Use</u>	<u>Provide Parking Spaces in Ration of One Space to Each</u>
Retail store, services, offices	300 square feet of gross building floor area
Restaurants, taverns, night clubs	2.5 seats
Medical or dental clinics	.5 employees working at one time (max)
Motels	1 room

<u>Type of Use</u>	<u>Provide Parking Spaces in Ration of One Space to Each</u>
Church, theater, auditorium, and other places of assembly	6 seats
Manufacturing and wholesale establishments	2 employees
Public schools	17 classroom seats
Bowling alley	.2 alleys
Community buildings and social halls	100 square feet of building
Private or commercial schools	10 classroom seats
Hospitals or nursing homes	2 beds
Single-family dwelling units, nonelderly	.66 dwelling unit
Multifamily dwelling units, elderly or Handicapped	.25 dwelling unit
Rooming houses and boarding houses [Amended 10-6-80 by Ord. No 80-2, approved 10-6-80]	1.5 roomers

Funeral homes .2 parlors

- B. Off-street loading. Every commercial or industrial building which requires the receipt or distribution by vehicles of material or merchandise shall provide one (1) off-street loading space for each twenty-five thousand (25,000) square feet of gross building floor area, and each such space shall be at least two hundred fifty (250) square feet in area.

§ 112-30. Nonconforming uses, buildings and lots

- A. Any legal nonconforming use or building may be continued, repaired, maintained, restored and rebuilt and improved, except as provided below:
- 1) Such nonconforming use may not be enlarged more than twenty-five percent (25%) of the existing floor area and/or lot area, and only one (1) such enlargement shall be permitted.
 - 2) If a nonconforming use of a building or land is abandoned for a continuous period of six (6) months, subsequent use of such nonconforming use shall be only in conformity with the provisions of this chapter. For the purposes of this chapter, abandonment shall begin when the nonconforming use ceases.
- B. Existing nonconforming lots. In any zone where a nonconforming lot exists as a separate entity at the time of passage of this chapter and where the owner of the nonconforming lot does not own and adjoining lot, then the following development is permitted:
- 1) If the lot is located in an R-1 District, a single-family dwelling may be constructed on it as a permitted use, provided that the lot is in at least fifty percent (50%) compliance with each of the following requirements for the single-family dwelling, as specified in the district in which the lot is located: lot area, lot width, rear yard, side yard and maximum building coverage.
 - 2) If the lot is located in the C-1 or I-1 District, then a structure not exceeding two (2) stories in height may be constructed on it for a use permitted in the district in which it is located, as shown on Schedule I,¹ provided that the off-street parking and loading requirements of this chapter shall be complied with and that the front, side and rear yards are in keeping with the surrounding area, except that a side yard of at least ten (10) feet shall be required whenever such a use abuts an existing residential use or a residential district.

§ 112-31 Alterations to conforming uses and buildings

Any conforming use or building may be repaired, maintained, restored or rebuilt to the same dimensions existing at the time that the structure was originally constructed. Any enlargement or addition to any conforming use must comply in all respects with the regulations of this chapter.

§ 112-32 Excavations

Any excavation for the removal of topsoil, gravel or mineral deposits of any kind must be enclosed by a fence located at least ten (10) feet from the sides or perimeter of the excavation.

¹ Editor's Note: Schedule I is included at the end of this chapter.

All such excavations must be adequately drained to prevent the formation of pools of water. The side walls of all such excavations shall slope at an angle no steeper than one (1) foot of vertical distance for each two (2) feet of horizontal distance.

ARTICLE VI Swimming Pools

§ 112-33 Enclosure required

- A. No person maintaining a swimming pool within the Borough shall continue to maintain such pool unless access to the same shall be restricted by protective fencing, as shall be approved by the Zoning Officer. The enclosure of existing facilities, as provided for herein shall be accomplished within sixty (60) days of the date of notification issued by the Zoning Officer.
- B. Fencing requirements. No person shall henceforth construct a swimming pool or maintain a swimming pool constructed hereafter within the borough unless the same shall be entirely surrounded by a substantial wire mesh or solid fence. Such fence shall be not less than forty-two (42) inches nor more than six (6) feet in height and shall contain no vertical interspace of more than two (2) inches and no horizontal rail or component on the outside usable as a footstep and shall satisfy the following minimum requirements:
 - 1) Wood picket, three-fourths-inch stock.
 - 2) Iron picket, one-half-inch iron bar.
 - 3) Chain link, vertical chains shall be eleven-gauge minimum wire and a maximum of two (2) inches apart.
 - 4) Woven or other solid fence: strength shall be equivalent to one (1) of the foregoing, satisfactory to the Zoning Officer.
 - 5) All gates in such fence shall be secured by locks when the owner or tenant is absent from the premises and by effective safety latches at all other times.
 - 6) A dwelling or accessory building may be used as a part of the required enclosure.
 - 7) Any mechanical equipment, such as pumps, filters or electrical devices, which is part of a pool facility shall be within the enclosure or shall be similarly enclosed so as to forestall persons from gaining access by climbing over such equipment.

§ 112-34. Locations and setbacks

- A. No swimming pool may be located in any required front yard nor shall it be less than ten (10) feet from:

- 1) Any main building, including any basement or cellar.
 - 2) Any property line.
- B. A swimming pool may be located in the side yard, provided that the location meets the requirements for an accessory building. Accessory buildings, such as locker rooms, bath-houses, cabanas, shower rooms, toilets and other physical facilities or equipment incident to the operation of any private swimming pool shall conform to the requirements of building, zoning and other applicable regulations.

§ 112-35. Safety requirements

- A. Every swimming pool shall be equipped with life rings, life preservers or other flotation devices readily available and functional for emergency uses.
- B. Any mechanical equipment, such as pumps, filters and electrical devices, shall be adequately enclosed so as to protect all persons from electrical shock and physical injury.
- C. No exposed electrical wires shall be nearer than six (6) feet to the water's edge, nor shall any exposed and permanently installed electrical wire within twenty-five (25) feet from the water's edge of the pool be less than ten (10) feet above the ground, nor shall wires of any kind cross or be over the water surface unless otherwise approved by the Zoning Officer. Any underwater lighting shall be accomplished by the use of methods and materials approved for such purposes by the National Board of Fire Underwriters.
- D. The buildings, grounds, dressing rooms and all other swimming pool facilities shall be kept clean and in a sanitary condition and maintained free from garbage, trash and other refuse.

§ 112-36. Drainage and discharges

- A. There shall be no discharge or drainage of water from a private swimming pool until the Zoning Officer has determined that the method or manner of emptying the pool is not contrary to the public interest or maintenance of the public sanitary sewer system or storm sewer system, or to the interests of other property owners.
- B. The discharge of water into a sanitary sewer system shall be prohibited.

§ 112-37. Additional requirements

- A. Location restrictions. No swimming pool shall be so located, designed, operated or maintained as to interfere unduly with the enjoyment of their property rights by occupants of property adjoining the swimming pool. The Zoning Officer may condition the issuance of a zoning permit on such reasonable conditions as may be deemed proper on the location, design, operation and maintenance to effectuate the purposes of this chapter.

- B. Lighting restrictions. It shall be unlawful for any person to install, arrange, use or permit to be used any light to illuminate a swimming pool without arranging and shading such light so as to reflect such light away from neighboring premises so as not to disturb the peace and comfort of the neighboring property owners or their property.
- C. Vacant residences. All swimming pools shall be drained and maintained free of water or safely covered during the period that the property is vacant or unoccupied. This subsection shall not be applicable during reasonable temporary absences by the owner or operator of any swimming pool.
- D. Polluted water. No body of water, whether it is a natural or artificial body of water, in the borough shall be used for swimming or bathing purposes by any person or persons, which body of water contains sewage, waste or other contamination or polluting ingredients rendering the water hazardous to the health, safety or welfare of such person or persons.

ARTICLE VII

Administration and Enforcement

§ 112-38. General procedure

General sequence of steps. All persons desiring to undertake any new construction, structural alterations or changes in the use of a structure, building or lot, including the construction of a swimming pool, shall apply to the Zoning Officer for a zoning permit by filling out the appropriate application form and by submitting the required use. The Zoning Officer will then either issue or refuse the zoning permit or refer the application to the Board. After the zoning permit, has been received by the applicant, he may proceed to undertake the action permitted by the Zoning Officer and, upon completion of such action shall apply to the Zoning Officer for an occupancy permit. If the Zoning Officer finds that the action of the applicant has been taken in accordance with the zoning permit, he will then issue an occupancy permit allowing the premises to be occupied.

§ 112-39. Classes of zoning permits

Under the terms of this chapter, the following classes of zoning permits may be issued:

- A. Permitted uses. A zoning permit for a permitted use may be issued by the Zoning Officer on his own authority.
- B. Exceptions. A zoning permit for an exception may be issued by the Zoning Officer only after review by the Commission and upon the order of the Board.
- C. Zoning permit after an appeal or a request for a variance. A zoning permit may be issued by the Zoning Officer upon the order of the Board and after a public hearing held by the Board for the purpose of deciding upon an appeal or a request for a variance.

§ 112-40. Zoning Officer

- A. Office of Zoning Officer hereby created. The appointment of a Zoning Officer and one (1) or more Deputy Zoning Officers is hereby authorized. Any Deputy Zoning Officer shall have duties and powers of enforcement equivalent to the Zoning Officer, and herein may be referred to as the Zoning Officer.
- B. This chapter shall be enforced by the Zoning Officer or, in his unavailability or absence, by one (1) or more Deputy Officers.
- C. The Borough Council shall appoint said Zoning Officer and deputy officers and shall determine their compensation.
- D. Duties and powers. The Zoning Officer shall receive and examine all applications required under the terms of this chapter and shall issue or refuse permits within five (5) days of the receipt of the application. The Zoning Officer shall issue a written notice of violation to any person, firm or corporation violating any provisions of this chapter. He shall keep records of applications, of permits or certificates issued, of variances granted, of inspections made, of reports rendered and of notice or orders issued and shall make all required inspections and perform all other duties as called for in this chapter. The Zoning Officer shall also identify and register nonconforming uses and nonconforming structures.

§ 112-41. Zoning Hearing Board

- A. Board is hereby created. The Borough Council does hereby create a Zoning Hearing Board as provided for by the laws of the Commonwealth of Pennsylvania, Act 247, as amended.¹ Said Act, being herein adopted as a part of this chapter, provides also for functions and procedures of the Board.
- B. Appointment of members. The Board shall consist of three (3) members, to be appointed by Council. The Board in existence at the adoption of this chapter shall continue to serve as the Board. An appointment to fill a vacancy caused by the failure of an appointee to complete a term of service shall be only for the unexpired portion of the term.
- C. Duties and powers. The Board shall be responsible for the interpretation of this chapter and shall adopt and make available to the public, rules for the exercise of its functions. The duties and powers of the Board shall be to hear and decide appeals, where it is alleged that an error has been made in the enforcement of this chapter, and to hear and decide requests for exceptions or conditions and variances. The Board shall perform such other duties as may be provided or made necessary by this chapter, including the interpretation of boundaries, the holding of public hearings, the referral of any pertinent matter to the Commission for review and recommendation and the maintenance of records on all decisions and findings.
- D. Referral to Commission. The Board shall refer to the Commission all applications or appeals which, in the opinion of the Board, require review by the Commission. In its

¹ Editor's Note: See 53 P.S. § 10101 et seq.

review, the Commission shall, in the case of exceptions, determine compliance with the standards set forth in this chapter and, in all cases, shall report in writing its findings and recommendations to the Board within thirty (30) days.

§ 112-42. Zoning permits

- A. The purpose of the zoning permit is to determine compliance with the provisions of this chapter, and, except for the repair or maintenance of any structure or use, no person shall erect, alter or convert any structure, building or part thereof nor alter the use of any land until a zoning permit has been issued by the Zoning Officer. All applications for zoning permits shall be in writing on forms to be furnished by the Zoning Officer. Zoning permits shall be issued in duplicate, and one (1) copy shall be kept conspicuously on the premises, and no person shall perform building operations of any kind unless the zoning permit is displayed as required by this chapter. The Zoning Officer or the Board may revoke a zoning permit at any time if it appears that the application is in any material respect false or misleading or that work being done upon the premises differs materially from that called for in the application.
- B. Any erection, construction, reconstruction, alteration or moving of a building or other structure, including a sign which is authorized by a zoning permit shall be commenced and any change in use of a building on land authorized by a zoning permit shall be undertaken within six (6) months after the date of issuance of the permit; if not, the permit shall be considered null and void. However, in case of erection or construction of a building, the right to proceed with construction may be extended annually without additional fees for an aggregate period of not more than three (3) years, provided that the construction pursuant to said permit has commenced within the first one-year period.

§ 112-43. Occupancy permits

The purpose of an occupancy permit is to certify that the premises comply with the provisions of this chapter and may be used for the purposes set forth in the occupancy permit. Prior to the use or occupancy for which a zoning permit is required or for any change of use of any existing building or for any change of use of land, an occupancy permit shall be secured from the Zoning Officer. A copy of the occupancy permit shall be kept upon the premises and shall be displayed upon request made by any officer of the borough. All applications for occupancy permits shall be in writing on forms to be furnished by the Zoning Officer.

§ 112-44. Certificates of nonconforming use

The owner of the premises occupied by a lawful nonconforming use of building may secure a certificate of nonconforming use from the Zoning Officer. Such certificate shall be authorized by the Board and shall be for the purpose of ensuring to the owner the right to continue such nonconforming use.

§ 112-45. Variances

- A. Board may authorize variance. Upon appeal and after a public hearing, the Board may, for a use permitted in the zone district, vary the strict application of any of the requirements of this chapter, provided that said variance shall be in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.
- B. Required showing for variances. No variance in the strict application of any provision of this chapter shall be granted by the Board unless it finds special circumstances or conditions applying to the land or buildings in the neighborhood, that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building; that the granting of the variance is necessary for the reasonable use of the land or building and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose; and that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

§ 112-46. Appeals

- A. Appeal from decision of zoning officer. Any person, firm or corporation which deems itself aggrieved by any order of the Zoning Officer shall have the right to file a written appeal to the Board within twenty (20) days of the issuance of said order. The Board shall decide each appeal within forty-five (45) days and shall give notice to all parties in interest. The Board's decision shall be immediately filed in its office and be a public record.
- B. Expiration of appeal decision. Unless otherwise specified by the Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary zoning permit or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.
- C. Appeal from decision of Board. In case of an appeal from the Board to the Court of Common Pleas, the Board shall make the return required by law and shall promptly notify the Borough Solicitor of such appeal and furnish him with a copy of the return, including transcript of testimony. Any order of the Board not appealed within thirty (30) days shall be final.

- D. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certified to the Board, after the notice of appeal shall have been filed, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board after notice to the Zoning Officer.
- E. Information required on appeals to the Board. All appeals from a decision of the Zoning Officer and applications to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall include the following:
- 1) The name and address of the applicant or appellant.
 - 2) The name and address of the owner of the zone lot to be affected by such proposed change or appeal.
 - 3) A brief description and location of the zone lot to be affected by such proposed change or appeal.
 - 4) A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.
 - 5) A statement of the section of this chapter under which the appeal is made and reasons why it should be granted or a statement of the section of this chapter governing the situation in which the alleged erroneous ruling is being appealed and the reasons for this appeal.
 - 6) A reasonably accurate description of the present improvements and the additions or changes intended to be made under this application, indicated the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.
 - 7) Names and addresses of all those persons owning property adjoining or across streets from the property to which the appeal pertains.

§ 112-47. Public hearings

Upon the filing with the Board of an appeal or a request for a variance, as required by the terms of this chapter, or for such purposes as provided herein, where the Board deems it in the public interest, the Board shall fix a time and place for a public hearing thereof as follows:

- A. Public notice: by publishing a notice once each week for two (2) successive weeks in a newspaper of general circulation in the borough, such notice stating the time and place of the hearing and the particular nature of the matter to be considered at the hearing, with the first publication to be not more than thirty (30) days or less than fourteen (14) days from the date of the hearing.
- B. Notice to appellant: by mailing a notice thereof by mail with returned receipt to the appellant.
- C. Notice to local officials: by mailing a notice to the President of Council, the Commission and the Borough Secretary.
- D. Notice to interested parties: by mailing a notice thereof to every association of residents of the borough, and any other interested party who shall have registered their names and addresses for this purpose with the Board and to those persons whose property or properties adjoin or are across rights-of-way from the property to which the hearing pertains. The notice shall state the location of the building or lot in question and the general nature of the question involved.

§ 112-48. Amendments

The enactment of amending ordinances to this Zoning Ordinance and procedures for such enactment are provided for in Act 247 of 1968, as amended,¹ said Act being adopted herein as a part of this chapter.

§ 112-49. Violations and penalties

- A. Council may initiate appropriate action. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or any ordinance or regulation made under authority conferred hereby, the Borough Council or, with its approval, the Zoning Officer, in addition to other remedies, shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation within thirty (30) days; and to prevent any illegal act, conduct, business or use in or about such premises.
- B. Violation punishable. Any person, firm or corporation violating any provision of this chapter, after being served with the (10) days' written notice to abate such violation, shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500) and costs of prosecution for each and every offense and, in default of payment of such fine and costs, to imprisonment for not more than sixty (60) days, or both. Each day's violation shall constitute a separate offense. Violations of this chapter shall not be limited to real estate owners but shall include any contractor, excavator, builder or person, firm or corporation performing any actual physical change in the real estate, property, structure or sign. Said notice to abate may be served personally, by certified mail or, if said notice cannot be served by either of the above methods, service

¹ Editor's Note: See 53 P.S. § 10101 et seq.

may be made by posting the premises with one (1) copy of said notice. All fines collected for the violation of this chapter shall be paid to the Borough of Montrose.

§ 112-50. Fees

The following fees shall be paid at the office of the Zoning Officer upon the filing of an application:

- A. Zoning permits for uses not requiring Board action: five dollars (\$5.). [**Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- B. Zoning permits for uses requiring Board action: one hundred seventy-five dollars (\$175.). [**Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80; 6-1-87 by Ord. No. 87-7, approved 6-1-87, Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- C. Variance or appeal application: one hundred seventy-five dollars (\$175.). [**Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80; 6-1-87 by Ord. No. 87-7, approved 6-1-87, Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- D. Request for amendment: two hundred twenty-five dollars (\$225.). [**Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80; 6-1-87 by Ord. No. 87-7, approved 6-1-87, Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- E. Certificates of nonconformance: no fee if application is made within twelve (12) months after the effective date of this chapter, otherwise, a fee of five dollars (\$5.) shall be paid. [**Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- F. Occupancy permit: no fee if associated with a building permit or zoning permit, otherwise, a fee of five dollars (\$5.) shall be paid. [**Amended 10-6-80 by Ord. No. 80-2, approved 10-6-80, Amended 3-4-13 by Resolution No. 2013-03, approved 3-4-13**] **Reference Fee Schedule**
- G. Application for interpretation of boundaries: ten dollars (\$10.)

ZONING

Montrose Borough
Susquehanna County, Pennsylvania
Resolution 2013-03

Fee Schedule

Mobil Home/per unit	\$125.00	
Single Family/dwelling	\$200.00	
Townhouses/per unit	\$250.00	
Duplex Dwelling	\$250.00	
Commercial	\$300.00	
Industrial	\$300.00	
Patio	\$45.00	
Roof	\$45.00	
Carport	\$45.00	
Tool Shed	\$45.00	
Fences	\$45.00	
Private Garages	\$200.00	
**Under 1,000 sq.ft.		
Alterations		
Non-Residential	\$100.00	
Residential	\$75.00	
Additions		
Non-Residential	\$100.00	
Residential	\$75.00	
Decks	\$50.00	
Porches	\$50.00	
Swimming Pools above ground	\$50.00	
Swimming Pools in-ground	\$100.00	
Signs		
On Buildings	\$25.00	
Free Standing	\$40.00	
Misc		
Moving of Building	\$50.00	
Street Opening (Driveway)	\$25.00	
Fuel Storage tanks & Pumps	\$25.00	
Permitted use change	\$15.00	
Application costs		
Planning Commission/Borough Council	\$100.00	
Zoning Hearing Board (per session)	\$600.00	plus allowable expenses
(Half of cost for the Stenographer)	\$250.00	

The Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

Resolved by the Council of the Borough of Montrose, Susquehanna County, on the

4th day of March, 2013.


Thomas LaMont, Council President

ATTEST:


Erin H. Jenner, Secretary

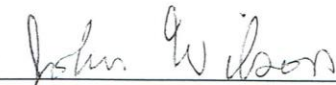

John Wilson, Mayor

Table of Zoning Map Amendments

The following is a chronological listing of amendments made to the Zoning Map adopted by § 112-11 of this chapter. The complete text of each change is on file in the office of the Borough Secretary.

Ordinance No.	Adoption Date
78-7	6-5-78
78-8	6-5-78
78-9	7-6-78
87-1	2-2-87
	12-12-12
Revised	8-1-16

ZONING

Schedule I

Regulations Governing Use of Land Borough of Montrose

Use Class	Zoning District					
	R-1	C-1	I-1	M-1	D-1	X-1
Permitted Uses:						
1. Residential	x				x	x
2. Light commercial		x	x		x	
3. Heavy commercial and Limited industrial			x			
4. General industrial			x			
5. Customary accessory Uses and essential services	x	x	x	x	x	x
10. Medical services			x			
11. Office Services		x	x		x	x
Exceptions:						
6. Mobile home park			x			
7. Apartments and conversions	x	x			x	x
8. Related residential uses	x	x			x	x
9. Appropriate public uses	x	x	x	x	x	x

NOTE: "x" indicates that the use class is permitted in the district.

[Amended 12-12-12, Adopted 12-12-12] Reference current zoning map

ZONING

Schedule II

**Regulations Governing Size of Lots, Yards and Buildings for Permitted Uses
Borough of Montrose**

Regulation	Zoning District					
	R-1	C-1	I-1	M-1	D-1	X-1
Minimum lot size:						
Area (square feet)	15,000	4,000	10,000	4,000	2,000	2,000
Width (feet)	100	40	100	40	40	40
Depth (feet)	150	100	100	100	50	50
Minimum yards:						
Front (feet)	25	10	25	10	10	25
Rear (feet)	30	20	20	20	10	20
Each Side (feet)	15	0	15	0	0	10
Side abutting R-1 (feet)	-	10	-	10 ¹	0	-
Maximum height:						
Number of stories	2 ½	3	3	3	5	3
Feet	35	40	35	35	55	35
Maximum building Coverage (percentage)	40	60	50	60	60	60

¹ Editor's Note: Amended 2-2-87 by Ord. No. 87-2, approved 2-2-87.

APPENDIX

CIVIL SERVICE RULES

Chapter A115

CIVIL SERVICE RULES AND REGULATIONS

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- § A115-56. Authorization to amend rules; adoption.

[HISTORY: Adopted by the Civil Service Commission of the Borough of Montrose 12-4-70, approved by the Council of the Borough of Montrose 1-4-71. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department – See Ch. 26.

ARTICLE I

Definitions

§ A115-1. Terms defined

Unless otherwise expressly stated, the following words and phrases wherever used in these rules and regulations shall be construed to have the meaning indicated herein:

BOROUGH SECRETARY – The Secretary of the Borough of Montrose, Pennsylvania.

CERTIFICATION – The submission to the appointing authority of names taken from the eligible list.

CHAIRMAN - The Chairman of the Civil Service Commission of the Borough of Montrose, Pennsylvania

COMMISSION – The Civil Service Commission of the Borough of Montrose, Pennsylvania.

COUNCIL – The Council of the Borough of Montrose, Pennsylvania.

ELIGIBLE – A person whose name is recorded on a current eligible list or furlough list.

FURLOUGH LIST – The list of persons who were laid off from positions in the Police Department because of a reduction in the number of officers in the Police Department.

PROBATIONER – An officer in the Police Department who has been appointed from any eligible list, but who has not yet completed his work test period.

REDUCTION IN RANK – A change to a different position or rank which results in a decrease in salary; provided, however, that a decrease in salary without a change to a different position or rank shall not constitute a reduction in rank.

REMOVAL – The permanent separation of a police officer from the Police Department.

SECRETARY – The Secretary of the Civil Service Commission of the Borough of Montrose, Pennsylvania.

SUSPENSION – The temporary separation of a member of the Police Department from his position.

ARTICLE II

Civil Service Commission

§ A115-2. Officers

The Civil Service Commission of the Borough of Montrose, Pennsylvania, on the first Monday of each even-numbered year, shall elect one (1) of its members as the Chairman, one (1) as Vice Chairman and one (1) as Secretary. If the first Monday is a legal holiday, the meeting shall be held the first day following. In the event that a vacancy occurs on the Commission, interim elections will be held within forty-five (45) days of the effective date of the vacancy.

§ A115-3. Duties of Chairman

The Chairman or, in his absence, the Vice Chairman shall preside at all meetings of the Commission, decide all points of order or procedure and perform any duties required by law or these rules.

§ A115-4. Duties of Secretary

The Secretary shall carry on, at the direction of the Commission, all official correspondence of the Commission, send out all notices required by law and these rules of procedure, keep a record of each examination or other official action of the Commission and perform all other duties required by law, by these rules and by the Commission.

§ A115-5. Meetings

Except for the biennial organization meeting, all meetings shall be held either at the call of the Chairman or at the call of two (2) members of the Commission. At least twenty-four (24) hours' notice of each meeting shall be given each member. The Commission shall have the discretion to determine whether meetings shall be open to the public.

§ A115-6. Quorum

A quorum shall consist of two (2) members, and all actions of the Commission shall have the concurrence of at least two (2) members.

§ A115-7. Order of business

The order of business of all meetings of the Commission shall be as follows:

- A. Roll call.
- B. Approval of minutes of previous meeting.
- C. Unfinished business.
- D. Hearing of cases.
- E. New business.
- F. Communications and reports.

§ A115-8. Minutes

The Secretary shall keep minutes of the Commission's proceedings showing the vote of each member upon each question or, if a member is absent or fails to vote, indicating such fact.

§ A115-9. Rules and regulations

The Commission shall have the power to prescribe, enforce and amend rules and regulations governing the conduct of its activities. Such rules and regulations must be approved by the governing body at a regular meeting and they may not be repealed or amended without the approval of the governing body at a regular meeting.

ARTICLE III **Applications; Qualifications**

§ A115-10. Applications required; form

No person shall be admitted to an examination for a position in the Police Department of the Borough of Montrose, Pennsylvania, until after he shall have filed, on the official form prescribed by the Civil Service Commission, a sworn application giving such information as the Commission may require. The official application form and all notations, references and statements appearing in it are incorporated by reference into these rules and regulations and shall be as much a part of these rules as if they were fully described herein.

§ A115-11. Availability of forms

Application forms shall be available to all interested persons in the office of the Borough Secretary, the Commission Secretary, Mayor, Chairman of the Fire and Safety Committee and the police officer on duty, also from offices and officers as the Commission from time to time may choose to designate.

§ A115-12. Age qualifications

At the time of the application, no applicant for any position in the Police Department shall be less than twenty-one (21) years of age. Each applicant shall present satisfactory evidence of his date of birth.

§ A115-13. General qualifications for all applicants

Each applicant for any position in the Police Department shall be a citizen of the United States and shall have graduated from an accredited high school. Each applicant shall be medically fit for the performance of the duties of a police officer as set forth in the medical requirements established by the commission, of good moral character and licensed to operate a motor vehicle in the Commonwealth of Pennsylvania. In the case of a foreign-born applicant, evidence satisfactory to the Commission shall be produced showing the person to be a naturalized citizen.

§ A115-14. Additional qualifications for applicants for Sergeant, Lieutenant and Captain

In addition to meeting the qualifications fixed for each applicant for a position in the Police Department, applicants for the position of Sergeant, Lieutenant and Captain shall:

- A. Have been continuously employed in the police service of a municipality for at least two (2) years prior to the date of application to qualify for Sergeant and at least four (4) years prior to the date of application to qualify for Lieutenant. Applications for the position of Captain must be serving the rank of Sergeant or Lieutenant at the time of application.
- B. Have satisfactorily completed a basic training program at a recognized police academy and shall have satisfactorily completed a training program which included instruction in supervision and management practices.
- C. Have demonstrated an ability to carry out orders for superiors.
- D. Demonstrate a working knowledge of police science and administration as ascertained by an appropriate promotional examination.
- E. Demonstrate an ability to supervise the work of subordinates.
- F. Have achieved at least a rating of excellent on his latest service rating. At the discretion of the Commission, an evaluation of experience, training, general background and other such records of performance of the applicant may augment or be substituted for the service rating.

§ A115-15. Investigation of applicants

An investigation of the character and reputation of the applicant shall be made by the Commission and may include credit reports and reports of investigations from recognized agencies.

§ A115-16. Filing of applications

Applications for any position in the Police Department may be received at any time during normal business hours in the office of the Borough Secretary and by such other offices and officers as the Commission may designate. The receipt of such applications shall be subject to the following conditions:

- A. No application received after 12:00 noon on the day that is fourteen (14) calendar days prior to the date fixed for the written examination in the public announcement shall be considered for such examination.
- B. An application shall become invalid one (1) year after the date upon which it was received.

§ A115-17. Review and recording of applications

The office of the Secretary of the Commission shall review each application upon receipt for the purpose of determining that such application contains no minor errors or omissions. Any application containing minor error or omissions shall be returned to the applicant for correction. The Secretary of the Commission shall date, number and record, in the order of receipt, all applications free of minor errors or omissions. An application, once recorded, shall be a public record and shall not be returned to the applicant.

§ A115-18. Disqualification of applicants

The Commission shall not examine any applicant who lacks any of the prescribed qualifications unless, in the judgement of the Commission, it can be reasonably presumed that the applicant shall have acquired the necessary qualifications prior to the date of a possible certification from the list of eligible produced as a result of the examination.

§ A115-19. Penalty for false statement

- A. The statements made by the applicant in the official application shall contain no falsification, omission or concealment of material fact. Should investigation disclose any willful misstatements, falsification or concealment with respect to an application:
 - 1) The application shall be invalid and the applicant shall be disqualified from the examination; or
 - 2) If the applicant shall have been examined, the name of such applicant shall be removed from the eligible list; or

- 3) If the applicant shall have been appointed, such willful misstatement, falsification or concealment shall constitute grounds for dismissal from the Police Department.
- B. No person who shall make any willful false application shall be permitted to make any future application for any position in the Police Department of the Borough of Montrose, Pennsylvania.

ARTICLE IV

Announcement of Examination

§ A115-20. Public notice

Public notice of the time and place of every examination, together with the information as to the position to be filled, shall be given by publication in a newspaper of general circulation in the Borough of Montrose, Pennsylvania. The public notice shall be published at least four (4) weeks prior to an examination and a copy of the notice shall be posted on the bulletin board in the Borough Municipal Building. Additional public notice by publication, posting or other means may be given at any time at the discretion of the Commission.

§ A115-21. Notice to qualified applicants

- A. In addition to the public notice, the Secretary shall give written notice to each qualified applicant as follows:
- 1) By mailing or otherwise delivering to each applicant who shall meet the prescribed qualifications for the duties of a police officer a notice which shall include the date, time and place and duration of the written and oral examinations.
 - 2) By mailing or otherwise delivering to each applicant qualified for a medical examination a notice which shall include the name of the medical examiner and the date, time and place the applicant shall report for a medical examination.
- B. Every such notice shall be mailed or otherwise delivered at least three (3) days prior to the date fixed for the examination. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his notice to the examiner before he shall be examined. Failure to report for any examination in accordance with the instructions contained in the written notice shall disqualify the applicant, except that, in the case of a medical examination, the applicant, with the proper approval of the medical examiner designated in the notice, may fix another date and time for such examination; provided, however, that any such date or time shall be within the period fixed for medical examination in § 115-23 of these rules.

ARTICLE V
Medical Examination

§ A115-22. Medical requirements

Every applicant for appointment to any position in the Police Department shall submit to a medical examination, which shall be paid for by the Borough Council, and must meet the minimum medical requirements established by the Commission. A statement of the medical requirements shall appear in the official application form and a copy of such statement of medical requirements shall be filed in the office of each medical examiner. Application and medical forms shall be attached and become part of the rules and regulations of the Civil Service Commission.

§ A115-23. Scheduling of medical examinations

No medical examination shall be scheduled less than twelve (12) days nor more than twenty-eight (28) days from the date fixed in the public notice for a written examination.

§ A115-24. Report of medical examiner

The Commission shall furnish each medical examiner with forms upon which he shall state the bodily and mental condition of each applicant. The statement of each examination shall be submitted to the Commission within five (5) days after the date of examination by the medical examiner.

§ A115-25. Rejection of medically unfit applicants

If the medical examiner shall deem any applicant medically unfit for the performance of the duties of a police officer because of any bodily or mental defect, whether or not the defect shall be specifically stated as a cause for rejection in the statement of medical requirements, such applicant shall be rejected and a brief statement of the reasons for rejection shall be entered in the report of the medical examiner. Insofar as practicable, however, the medical examiner shall determine the medical fitness of an applicant by adhering to the statement of medical requirements.

§ A115-26. Changes in medical condition; reexamination

Each applicant eligible for certification to the Commission for appointment to any position in the Police Department shall be instructed by the Secretary, before being certified, to inform the Commission of any illness or injuries requiring the attendance of a physician or requiring hospitalization and of any surgical operations that shall have occurred after the original medical examination. If, in the judgment of the Commission, there shall have been any change in the medical fitness of any applicant, whether or not such change shall have been reported by the applicant, the Commission may require the applicant to submit to a further medical examination before his name shall be certified for appointment. Any such further medical examination shall be performed at the expense of the borough by a regularly appointed medical examiner.

§ A115-27. Appointment of medical examiners

The Commission shall from time to time appoint one (1) or more medical examiners to make all medical examinations required by these rules.

**ARTICLE VI
Written and Oral Examinations****§ A115-28. Examinations for patrolman**

- A. The examination for position of patrolman shall consist of the following two (2) parts and shall be conducted in the following order:
- 1) A written examination which shall have been determined to fairly test the aptitude of a candidate for the police service and such other written tests as the Commission may from time to time designate.
 - 2) An oral examination.
- B. Each part of the written examination and the oral examination shall be graded on the scale of one hundred percent (100%) and shall be weighted as follows, the sum of the weighted scores not to exceed one hundred percent (100%):
- 1) For the written portions of the examinations, a total of seventy (70) points.
 - 2) For the oral examination, a total of thirty (30) points.

§ A115-29. Examinations for Sergeant, Lieutenant, Captain and Chief

- A. The examination for the position of Sergeant, Lieutenant, Captain and Chief shall consist of three (3) parts:
- 1) A written examination which shall include:
 - a. A test of police knowledge and performance.
 - b. A test to measure knowledge of supervisory and command responsibility.
 - c. Such other written tests as the Commission may from time to time designate.
 - 2) An oral examination.
 - 3) An evaluation of the service ratings or performance records of the applicant.

- B. The examination shall be graded on a scale of one hundred percent (100%) and shall be weighted as follows:
- 1) For the written portions of the examination, a total of forty (40) points.
 - 2) For the oral examination, a total of thirty (30) points.
 - 3) For the evaluation of the service ratings or performance records of the applicant, a total of thirty (30) points.

§ A115-30. Passing grades

- A. The minimum passing grade for an examination for the position of patrolman shall be a score of seventy percent (70%). The minimum passing grade for an examination for the position of Sergeant, Lieutenant, Captain and Chief of Police shall be a score of seventy-five percent (75%), and each applicant for any such position shall score at least seventy percent (70%) on each part of the examination.
- B. Every applicant for the position of patrolman who receives a score of at least seventy percent (70%) and who is entitled by law to additional credits for service in the Armed Forces of the United States shall have his score adjusted accordingly. Applicants claiming veterans' preference shall submit satisfactory proof of service and honorable discharge.

§ A115-31. Notice to applicant of grade

When the grading of each examination is completed, the Secretary shall give each applicant written notice of his grade.

§ A115-32. Period of ineligibility for future agreements

If an applicant fails to obtain a passing grade in any examination, he shall not be eligible for a subsequent examination for any position in the Police Department of the borough for a period of six (6) months.

§ A115-33. Administration of examinations

The Commission may designate the Institute for Urban Policy and Administration of the University of Pittsburgh, the State Civil Service Commission of the Commonwealth of Pennsylvania or any other recognized examining agency to act as examiner for the written examinations. The Commission shall reserve the right to accept or reject, in whole or in part, the recommendations of the regularly appointed examining agency. The oral examination and the evaluation of the service record or performance record of any applicant shall be the responsibility of the Commission; provided, however, that the Commission may designate from time to time such persons qualified in oral examining procedures and techniques or qualified to evaluate performance or service records as are considered necessary to assist in such examinations and evaluation.

§ A115-34. Instructions and rules for conduct of written examinations

The Commission shall prepare a statement of instructions and rules for the conduct of written examinations. The regularly appointed examiner shall carry on each such examination in accordance with instructions of the Commission and be responsible for enforcing the rules of conduct for written examinations.

§ A115-35. Penalty for improper conduct by applicants

Should any applicant be found guilty of any act tending to defeat the proper conduct or the result of any examination, his name shall be removed from any eligible list resulting from the examination, and the applicant shall not be permitted to make any future application for any position in the Police Department.

**ARTICLE VII
Eligible Lists****§ A115-36. Preparation of list; filing and posting**

As soon as possible after the completion of each examination, the Secretary shall prepare an eligible list upon which shall appear the name of each applicant who received a passing grade in the examination. The names on the eligible list shall be arranged, from the highest to the lowest, in the order of the final weighted score received by each applicant. The eligible list shall be filed in the office of the Borough Secretary and a copy posted on the bulletin board in the Borough Municipal Building.

§ A115-37. Tie scores

When two (2) or more qualifying applicants shall receive the same final weighted score, the order in which the names of such persons shall appear on the eligible list shall be determined by their scores on the part of the examination assigned the greatest weight. In the event that two (2) or more qualifying applicants also receive identical scores on the part of the examination assigned the greatest weight, the order of listing shall be determined by the order in which the applications were numbered for recording purposes.

§ A115-38. Effective period of eligible lists

The Commission, at its discretion, may void an eligible list at any time, but in no case, shall any eligible list remain in effect for a period of more than one (1) year from the date of its preparation.

§ A115-39. Furlough list

Whenever the Council causes a reduction in the number of police officers, the Commission shall prepare and maintain a list of the names of all such furloughed officers, together with the position held by each such officer at the time of furlough. The names on the furlough list shall be arranged, from the greatest to the least, in the order of the length of service of each furloughed officer in the Police Department of the borough.

ARTICLE VIII
Certification and Appointments

§ A115-40. Request for certification of eligible

When a vacancy is to be filled in the Police Department, the Council shall submit a written request to the Commission for certification of eligible. In making the request, the Council shall state the title of the position to be filled and the compensation to be paid.

§ A115-41. Certification of names from furlough list

Upon receipt of request from the Council, the Commission shall first certify the names of those eligible who were furloughed because of a reduction in force. In filling a vacancy from the furlough list, the Commission shall certify the top name only. If more than one (1) vacancy is to be filled, the Commission shall certify from the top of the list that number of names equal to the number of vacancies to be filled.

§ A115-42. Certification of names from eligible list

If no furlough list exists or if the total number of vacancies cannot be filled from the available names on the furlough list, the Commission shall certify names from the eligible list. The Commission shall certify for each existing vacancy three (3) persons whose names appear on the eligible list. If there are less than three (3) available on the eligible list, the Council may select from such lesser number of available eligible or may request that the Commission void the eligibility list and hold another examination.

§ A115-43. Removal of names from lists

- A. In addition to the other reasons stated as grounds for removal in these rules, the name of any person appearing on a furlough list or an eligible list shall be removed by the Commission if such person:
- 1) Is appointed to a position in the Police Department of the borough; or
 - 2) Declines an appointment to a permanent position in the Police Department of the borough; or
 - 3) Fails to make written reply to the Commission within seven (7) calendar days from the date of mailing of a notice of certification; or
 - 4) Indicates availability for appointment and is appointed to fill a vacancy but fails to report for duty at the time prescribed by the Council unless, in the opinion of the Council, such person can show good and sufficient reasons for failing to report.

- B. The name of any person on any eligible list also shall be removed by the Commission if he is three (3) times certified for consideration for appointment as the top name and is not appointed. Nothing in this section, however, shall be construed as authorizing the removal of the name of any person on any furlough list or eligible list who refuses or accepts a position of a lower rank than that for which he has qualified.

§ A115-44. Notice to applicant of certification

Whenever the name of any person is certified to the Council from either the furlough list or the eligible list, the person shall be immediately notified of his certification by either certified or registered mail. The notice shall include the title of the position and the compensation to be paid and shall also state that the person certified make a written reply within seven (7) days from the date of mailing such notice.

§ A115-45. Probationary period of appointment [Amended 4-3-72 by motion]

All original appointments to any position in the Police Department of the borough shall be for a probationary period of twelve (12) months. The Chief of Police shall investigate the adjustment, performance and general acceptability of each probationer under his supervision to determine whether such probationer is fully qualified for permanent appointment. The Chief of Police shall make a report on the performance and conduct of each probationer at the end of the third month of the probationary period, at the end of the sixth month of the probationary period, at the end of the ninth month of the probationary period and finally, not less than ten (10) calendar days nor more than fifteen (15) calendar days before the next regular meeting of the Council immediately preceding the end of the probationary period. Each final probationary report shall include the recommendation of the Chief of Police either to retain or reject the probationer. Each report shall be submitted, in writing, to the Council. Within five (5) calendar days after the regular meeting of the Council immediately preceding the end of the probationary period, the Council shall make its decision to retain or reject the probationer and shall notify, in writing, the probationer of the decision of the Council on or before the date of the close of his probationary period. The Commission shall be advised, in writing, of the action of the Council. In the event that the person named to the position of Chief of Police is a probationary appointment, the Mayor or Council shall designate one (1) person to evaluate the performance and conduct of the Chief in the same manner and subject to the same procedures as that established for all other positions in the Police Department of the borough.

ARTICLE IX

Suspensions, Removals and Reductions in Rank

§ A115-46. General procedures; statement of charges

No person in the police service shall be suspended, removed or reduced in rank except in accordance with law. Whenever any police officer in the borough is suspended, removed or reduced in rank, the specific charges shall be stated, in writing, by the appointing authority or a person designated by the appointing authority to act on its behalf. The charges shall be stated clearly and in sufficient detail to enable the person accused to understand the charges made against him and to answer them. As soon as practicable, the statement of charges shall be filed in duplicate with the Commission, and, within five (5) calendar days of such filing, the original

copy of the statement of charges shall be delivered to the person accused either by personal service or by certified or registered mail.

§ A115-47. Demand for hearing

Any police officer suspended, removed or reduced in rank may file with the Commission a written demand for a hearing. Such person may make written answers to any charges filed against him not later than the date fixed for the hearing. The Commission shall grant a hearing, within the period fixed by law, to any person accused who complies with the provisions of this section. Each such hearing shall be open to the public unless the accused, when making his written demand for a hearing, requests that such hearing be closed.

§ A115-48. Notice of hearing

Notice of the date, time and place for each hearing shall be given in the following manner:

- A. By either personal service or by certified or registered mail to each person making charges and to the person accused.
- B. By mailing a notice to all other parties who have stated an interest in the hearing; provided, however, that any failure to give the notice required by this subsection shall not invalidate any action taken by the Commission.

§A115-49. Testimony under oath

All testimony shall be taken under oath. The Chairman or, in his absence, the Vice Chairman shall administer all oaths.

§ A115-50. Subpoenas

The Chairman or, in his absence, the Vice Chairman may compel the attendance of witnesses and the production of records and papers pertaining to any hearing. However, upon the written request of the person accused or of any person making charges, the Chairman or, in his absence, the Vice Chairman shall order the attendance of any witness or the production of any pertinent document provided that such a written request is filed with the Secretary within five (5) calendar days from the date appearing on the notice of the hearing.

§ A115-51. Hearing procedure

The following rules shall be followed by the Commission in all hearings relating to the suspension, removal or reduction in rank of police officers or any other hearing which the Commission may be required to hold:

- A. Evidence:
 - 1) The rules of evidence in force in the Courts of Common Pleas of the Commonwealth of Pennsylvania, shall be the rules of evidence followed by the Commission; provided, however, that the rules with regard to hearsay evidence shall be relaxed and liberally construed.

- 2) All rulings on evidence shall be made by the Civil Service Commissioner presiding at the hearing subject to objection by other members of the Commission. In the event of such objection, the Commission shall adjourn, vote in private on the objection and return with a public ruling.

B. Parties:

- 1) Parties to hearings before the Commission shall be as follows:
 - a) Appellant: the party sought to be ordered, suspended, removed or reduced in rank who has requested a hearing and his counsel.
 - b) Commission: The Civil Service Commission, individually or collectively, shall have the rights of a party in all hearings and may appear by counsel.
 - c) Suspendor: the appointing authority or a person designated by the appointing authority to act on its behalf and the same may appear by counsel.
- 2) Counsel is defined as an attorney at law who is admitted to practice before the Supreme Court of the Commonwealth of Pennsylvania.
- 3) Rights of the parties:
 - a) All parties shall have the right to request that the Commission issue subpoenas to compel the attendance of witnesses or other evidence.
 - b) All parties shall have the right to remain silent, to testify, to examine witnesses and to cross-examine witnesses of other parties and to offer documentary or other nonoral evidence.
 - c) The Civil Service Commission shall have the rights of a party with the regard to the calling of witnesses and the rights to cross-examine witnesses of the other parties.

C. Procedural rules. The hearing shall be conducted as follows:

- 1) The Chairman or, in his absence, the Vice Chairman shall call the hearing to order, state the general purpose of the hearing and make note of the parties present.
- 2) The suspension notice and charges therein and the answer thereto, if any, shall be read into the record by the Secretary of the Commission.
- 3) All witnesses shall testify under oath and the oath shall be given by the presiding Commissioner.
- 4) The suspendor may make an opening statement.
- 5) The suspendor may present witnesses and evidence.

- 6) The appellant may move for dismissal of the suspension and charges thereunder and may argue therefor.
- 7) The Commission shall rule on a motion to dismiss.
- 8) The appellant may make an opening statement.
- 9) The appellant may present his witnesses and evidence.
- 10) Argument shall be as follows:
 - a) The party ordering the suspension shall argue first.
 - b) The appellant shall have the final argument.
- 11) All parties shall have the right of cross-examination at the conclusion of testimony on direct examination. Redirect examination and recross-examination shall be permitted.
- 12) Decision by the Commission:
 - a) The decision shall be reached by secret written ballot.
 - b) Majority and minority opinions may be filed.
- 13) A stenographic record of all testimony taken at a hearing shall be filed with and preserved by the Commission.

§ A115-52. Decision of the Commission

Within fifteen (15) calendar days after the hearing, the Commission shall issue its decision in the form of a written order approved by at least two (2) members of the Commission. The written order shall include all findings of fact. If, during the public hearing, opposing facts are presented, the Commission shall include in its written order its decision as to the correct facts. The findings and decision of the Commission shall be certified to any person making charges, to the accused officer and to the Council.

ARTICLE X Access to Records

§ A115-53. Inspection of Commission records generally

Except as otherwise provided in this Article and by law, all of the records of the Commission shall be open to the public and available for inspection during normal business hours. A member of the Commission or any person who may, from time to time, be designated by the Commission shall be present at all times during any inspection of any record of the Commission.

§ A115-54. Character and reputation reports

All the reports of investigations and inquiries into the character and reputation of applicants shall be kept in the strictest confidence and shall not be open to inspection.

§ A115-55. Examination materials

- A. All examination materials shall be confidential and shall not be open to general public inspection. Any examined applicant may inspect his examination papers, provided that:
- 1) He makes a written request to the Commission within seven (7) calendar days from the date of mailing of the written notice of his grade.
 - 2) He receives the written consent of the Commission to inspect within five (5) calendar days from the date of the mailing of the consent of the Commission.
- B. The Commission shall not consent to the request of any examined applicant to inspect any written examination paper which may be used in any subsequent written examination that may be scheduled within ninety (90) calendar days following the date of receipt of the written request. If the Commission consents to an inspection of the written examination papers by any examined applicant, it shall state in its letter of consent the specific examination papers that may be inspected. Before any member of the Commission or any person designated by the Commission permits any inspection of examination papers, he shall require the examined applicant to produce the letter indicating the consent of the Commission, and he shall limit the inspection by the examined applicant to only those examination papers indicated in the letter of consent. No examined applicant shall be permitted to inspect any examination papers other than his own nor shall he be permitted to make any written notes while he is inspecting any examination paper.

**ARTICLE XI
Amendments****§ A115-56. Authorization to amend rules; adoption**

The Commission, with the approval of the Council, may from time to time amend any part of these rules and regulations. The foregoing rules and regulations which are in accordance with the powers granted by the civil service sections of the Borough Code enacted by the General Assembly of the Commonwealth of Pennsylvania¹ and in accordance with the authority granted by the Council of the Borough of Montrose, Pennsylvania, are hereby adopted by the Civil Service Commission of the Borough of Montrose, Pennsylvania on December 4, 1970.

¹ Editor's Note: See 53 P.S. §§ 46171 through 46195

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INDEX INSTRUCTIONS

The main INDEX, beginning on page 1, will guide you to the legislation contained within the Code at the time the main INDEX was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some INDEX entries to become obsolete. INDEX entries to the new material will be provided for in the SUPPLEMENTAL INDEX, beginning on page SI-1.

The SUPPLEMENTAL INDEX should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main INDEX.

When received, SUPPLEMENTAL INDEX pages should be placed directly following this page and in front of the main INDEX according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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