

CITY OF MONTICELLO

ORDINANCE NO. 2020- 6

TITLE: Amendments to the Subdivision Regulations, Common Wall Subdivision

PURPOSE: To adopt amendments to the Subdivision Regulations, Title 11, of the City of Monticello as Title 11-1-10, Common Wall Subdivision

WEREAS, existing businesses within the commercial zones of the City of Monticello are divided by a common wall, and

WHEREAS, business owners under lease contracts may have a desire and/or opportunity to purchase commercial space, and

WHEREAS, the City of Monticello is supportive of local business endeavors:

NOW, THEREFORE, be it ordained by the Monticello City Council:

Title 11, of the Subdivision Regulations of the City Code of Monticello is hereby amended as follows:

11-1-10: Common Wall Subdivision

11-1-10 A: Purpose: The purpose of this title shall be to allow a business owner to purchase a portion of a building, causing a subdivision within an existing property/structure.

11-1-10 B: Requirements:

1. The purchase shall include the portion of the building and the property on which it sits.
2. The Planning Commission shall review a subdivision application submitted by the subdivision requestor along with a plat map showing legal ownership, legal description and survey of proposed subdivision, townsite block, and surrounding streets.
3. **Common Wall Agreement:** A signed agreement shall be presented to the Planning Commission as follows:
 1. Definition of properties to include legal survey and legal description of proposed subdivision.
 2. Establishment of Common Facilities
 3. Repair and Maintenance
 4. Maintenance of Non-Common Areas
 5. No Right of Modification/Alteration

(c) A contamination control measure means a device or administrative control which is implemented to prevent discharges to the ground water. Spill protection is an example of a contamination control measure. Contamination control measures shall be compliant with the applicable design standards.

(d) "Extremely hazardous substance" means any substance identified in Section 302 (EHS) column of the "Title III List of Lists – Consolidated List of Chemicals Subject to Reporting Under SARA Title III" (EPA 560/4-91-011).

(e) "Land management strategies" are zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements.

(f) "Pollution source" means a source of discharges of contaminants to ground water or potential discharges of the liquid forms of extremely hazardous substances which are stored in containers in excess of applicable threshold planning quantities as defined in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, Class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies and animal feeding operations with more than ten animal units.

(g) "Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

(h) "Regulatory agency" means any governmental agency with jurisdiction over hazardous waste.

(i) "Sanitary landfill" means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

(j) "Septic tank" and "drain field system" mean a system which is comprised of a septic tank and a drain field which accepts domestic waste water from buildings or facilities for subsurface treatment and disposal. By their design, septic tank and drain field discharges cannot be controlled with control devices or control measures.

(k) "Wellhead" means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

(3) There are hereby established drinking water source protection zones to be known as Zones One, Two, Three and Four of the drinking water protection area, identified and described as follows:

(a) Zone One is the area within a 100-foot radius of the wellhead.

(b) Zone Two is the area within a 250-day ground water time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the ground water source, or the ground water divide, whichever is closer.

(c) Zone Three is the area within a 3-year ground water time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the ground water source, or the ground water divide, whichever is closer.

(d) Zone Four is the area within a 15-year ground water time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the ground water source, or the ground water divide, whichever is closer.

(4) The following land uses shall be permitted within drinking water source protection zones:

(a) Any land use permitted within existing agricultural, single family residential, multi-family residential and commercial districts so long as the land use conform to the rules and regulations of the regulatory agency with jurisdiction over hazardous waste.

(b) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

(5) The following land uses or conditions are prohibited within drinking water source protection zones, even if such use or condition may otherwise be ordinarily included as part of permitted land use under subsection (4):

(a) Zone One: The location of any uncontrolled potential contamination sources.

(b) Zone Two: The location of a pollution source unless its contaminated discharges can be controlled with controls compliant with design standards.

(c) Zone Three and Zone Four: The location of a potential contamination source unless it can be controlled through land management strategies.

(6) The enforcement and penalties for violations of the policies and procedures for administration of the drinking water source protection zones established by this section, including without limitation those applicable to

6. Covenant Running with the Land
 7. Restriction on Amendment to this Agreement
 8. Lien Rights
 9. Maintenance and Repair of Individual Conjoining Property
 10. Insurance
 11. Cross-Easement
 12. Common Wall.
 14. Power of Attorney
 16. Limitations of Use
 17. Attorney Fees
4. The Planning Commission shall consider recommendation of the requested subdivision to the Monticello City Council for final approval.

This ordinance shall become effective November 10, 2020.

PASSED and APPROVED by the Monticello City Council on this 18th day of November 2020.

/s/Tim Young, Mayor

ATTEST:

/s/Cindi Holyoak, Recorder

