
CHAPTER 3: UTILITIES, BUILDING & CONSTRUCTION

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SECTION 300. BUILDING CODES.

Section 300.00. Building Code.

The Minnesota State Building Code (SBC), established pursuant to Minnesota statutes, one copy of which is on file in the office of the city clerk, is hereby adopted as the building code for the city. The SBC is hereby incorporated in this code as completely as if set out in full.

Subd. 1. Administration Required. The city will administer the SBC code as required by state statutes.

Subd. 2. Administration Optional. The following chapters of the SBC are not mandatory but will be adopted by the city: appendix chapter 33.

Subd. 3. Organization and Enforcement. The SBC shall be enforced by the zoning administrator and / or by the building inspector. The city building inspector will be the administrative authority and that person shall be a state certified building official. The city council shall designate the building official for the city.

Section 300.05. Building Official.

There is hereby established the office of building inspector. The city's building inspector shall be the "building official" to be appointed in accordance with Minnesota statutes and shall administer the building code as required by state statutes and city ordinances. The building inspector shall be the "building official" and the "administrative authority" referred to in the SBC and its appendices and supplementary material.

Section 300.07. Building Permit Required.

No person, shall undertake a construction project that requires a permit by the Minnesota State Building Code without a valid building permit issued by the city. No permit may be issued unless the zoning administrator has determined that the proposed construction project complies with the zoning code and / or the applicant has obtained the necessary variance and / or conditional use permit as may be required. (THIS SECTION ADDED JAN 2016, ORD 250)

Section 300.10. Fees.

Subd. 1. Fees Required. No permit required by the building code shall be issued until the fee required by this section shall have been paid to the building inspector. No amendment to a permit shall be issued until the additional fee, if any, shall have been paid.

Subd. 2. Commencement of Work Without a Permit - Penalty. Where work for which a permit is required by this ordinance is started or proceeded with prior to obtaining said permit, the fee to be paid for the permit shall be the greater of: (1) double the ordinary building permit fee specified by city ordinances, or (2) an amount equal to the sum of all administrative costs in connection with the granting of said permit and in connection with the granting of any variance, conditional use permit, or rezoning necessary for the granting of said permit. Administrative costs shall

include, but shall not be limited to, all costs of the inspection of the premises, the cost of all time spent by the building inspector, city clerk, and other city personnel in processing the application and issuing the permit and in connection with any requested variance, conditional use permit or rezoning, all engineering and attorney's fees related thereto and all publication costs in connection therewith. Payment of such fee shall not relieve any person from complying with the requirements of this ordinance in the execution of the work.

Subd. 3. Permits, Inspections, and Fees. Permits, inspections, and collection of fees shall be as provided in the Uniform Building Code.

Subd. 4. Surcharge. In addition to the permit fee required by the above subdivisions, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota statutes.

Section 300.15. Certificate of Survey.

Subd. 1. Survey Required. Every application for building permit will be accompanied by a certified site survey (excluding interior remodels, re-roofs, re-siding and general maintenance) at a scale and in quantities deemed necessary by the zoning administrator. Because the survey will be used to determine whether an application is in conformance with city code, it will be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit and/or land alteration permit will authorize only land alterations identified on a survey. Surveys will include all information as deemed necessary by the zoning administrator to provide for the enforcement of this chapter and the zoning chapter. An original signature is required on the certificate of survey. The survey shall provide the following information unless otherwise approved in writing by the zoning administrator:

1. Graphic scale of not less than 1 inch to 30 feet and north arrow;
2. Legal description of property;
3. Dimensions and bearing of front, rear, and side property lines;
4. Parcel size in acres and square feet;
5. Location and dimensions of all the existing improvements, including but not limited to; buildings, structures, retaining walls or timbers, riprap, seawall, steps, parking areas, driveways, storage areas, utilities, septic systems and wells; including but not limited to sanitary and storm manholes, hydrants, catch basins, power poles, phone boxes, fences, and any encroachments;
6. Location and dimension of all proposed buildings and structures;
7. Location of building corners on adjacent properties;
8. Outside dimensions of proposed structure(s) including decks, porches, retaining walls (include elevations at bottom of footing and top of wall), stoops, stairs, cantilevers, fireplaces, bay and bow windows, egress window wells;
9. Impervious surface calculations - existing and proposed - % and square footage;
10. "Building pad" setbacks on the survey according to the ordinance provisions and show the closest distance between the buildings and front lot line(s), side lot line(s), rear lot line(s), ordinary high water level (OHWL), elevation of 929.4 feet above sea level, and shoreline improvements, including but not limited to riprap, seawall, or retaining timber;
11. Distance between principal buildings and accessory buildings and structures, and shoreline improvements;
12. Delineate all wetland, OHWL of lakes, easements, driveways;
13. Location of all easements of record including but not limited to tree preservation, wetland conservation, cross-access, etc.;
14. Topographic contours at 2-foot intervals of existing and proposed elevations;
15. Lowest floor level, first floor elevation, top of block, and garage slab;
16. Indication of direction of surface water drainage by arrows;
17. Tree removal, tree preservation and grading plan if required by the city;
18. All significant trees as described in section 1140.80;
19. Wetland boundaries with OHWL and 100-year flood elevation if applicable;
20. Driveway grade;
21. Wetland buffer areas and wetland or lake setback dimensions;
22. Other information as required by the city;
23. Location and type of erosion and sediment control measures to be installed by permit holder.

Subd. 2. Additional Surveys or Measurements. The zoning administrator may require additional surveys or measurements to verify compliance with the ordinances throughout the duration of the project. Additional surveys and measurements may include, but are not limited to foundation survey, impervious surface survey, grading survey and structure height verification. The city will withhold the certificate of occupancy for any project in which additional

survey(s) have been requested and not provided until such time the requested survey(s) have been submitted and approved by the zoning administrator.

Section 300.20. Moving Permits.

No building or structure shall be moved into the city or within the city without a permit therefore from the city. A fee equal to the normal building permit fee, based on the value of the building as determined by the building inspector, shall be paid for such permit if issued. No such permit shall be issued until the applicant has:

- 1) Secured a certificate from the building inspector that the building or structure meets the requirements of the building code, in which certificate the building inspector shall fix the time by which the moving shall be completed.
- 2) Secured the approval in writing of the owners of the land within a radius of 500 feet of the land upon which the building or structure is to be located.
- 3) Secured the approval of the city council to move the building or structure over city streets, the city council taking into consideration the width, type and condition of the streets to be traveled and the overhanging trees and utility lines on said streets, which may have to be cut or removed.
- 4) Agreed to and complied with all requirements of the building code regarding location of the building or structure on the land, construction of a new foundation, wiring, plumbing, and well; and agreed to and complied with any other applicable requirements of the building code and city ordinances.
- 5) Posted a cash bond in the sum to be fixed by the council, insuring payment for any damage to streets traveled and insuring compliance with the building code and the permit to be issued.

Section 300.25. Duration of Permit.

In addition to the expiration provisions of the SBC, every permit issued under this ordinance shall expire and become null and void one year after the date it is issued, unless the expiration date of the permit is extended by resolution of the city council.

Section 300.30. Completion of Exterior.

All exterior building work authorized by a permit issued in accordance with the SBC shall be completed within 180 days following the issuance of the building permit.

- (a) Administrative Extension. In the event the holder of a building permit is in need of additional time to complete all planned exterior building work, the permit holder may on payment of the applicable fee, (in an amount set by the city council and included in chapter 5 of this code) make written application to the zoning administrator for a one time 60-day extension to complete the exterior work of their project. The zoning administrator may grant the time extension upon a finding that:
 - (1) Substantial progress has been made toward completion. (Substantial progress means that the planned exterior work on the project is presently over 75% complete);
 - (2) A justifiable cause for the delay has been demonstrated; and,
 - (3) The permit holder has the capability to finish the planned exterior work within the time period of the extension.
- (b) Evidence. Prior to the grant of extension, the zoning administrator may require of the permit holder evidence of the ability to complete the exterior work, including but not limited to, a list of contractors and subcontractors under contract for the completion of the project.
- (c) Council Review. In the event the permit holder application for an administrative extension is denied or the permit holder believes they are in need of additional time to complete the planned exterior work, a permit holder may on payment of the applicable fee, (in an amount set by the city council and included in chapter 5 of this code), make written application to the city clerk for city council review and grant of additional time to complete the planned exterior work. The council may grant one extension for an additional 30 to 120 days if (1) substantial progress has been made toward completion, and (2) a justifiable cause for the delay has been demonstrated by the permit holder.
- (d) Noncompliance. Permit holders whose planned exterior work remains uncompleted shall be subject to an administrative citation and fine in an amount set by the city council and included in chapter 5 of this code following the procedures outlined in chapter 12 of this code. In the event a permit holder after receiving an extension to complete the planned exterior work, (administrative or council issued), then fails to complete the exterior work within the time granted, the permit holder shall be subject to an administrative citation and fine in an amount set

by the city council and included in chapter 5 of this code. A continuing violation of this section, may be addressed by the city through administrative civil citations and/or, at the sole election of the city, a civil action for injunctive relief and all reasonable attorney fees, staff expenses, and costs incurred by the city can be assessed to the subject property.

(SECTION 300.30 ADDED JANUARY 2011, ORD. 189)

Section 300.35. Certificate of Occupancy.

All buildings and structures, including garages, are required to have a certificate of occupancy issued by the city in accordance with the requirements of the International Building Code. A certificate of occupancy shall not be issued by the city until all fees and / or civil citation fines owed to the city have been paid in full, including but not limited to: load limit fees, building permit fees, permit to extend completion of exterior fees, non completion of exterior fines, nuisance code violation fines, and zoning code violation fines. Payment of fees / fines to the city in order to obtain a certificate of occupancy does not diminish a property owner's right to appeal the fees / fines in an administrative hearing or in court.

(SECTION 300.35 REVISED JANUARY 2011, ORD. 189)

Section 300.40. Violations and Penalties.

The penalty described in the SBA, as amended shall be in keeping with Minnesota statutes

SECTION 305. CONSTRUCTION SITE MANAGEMENT.

Section 305.00 Construction Site Management.

The purpose of these requirements is to ensure preparation and implementation of construction site management plans in order to limit the impact of prolonged construction projects on the immediate neighborhood.

Subd. 1. General Regulations. All residential and commercial construction sites for projects shall comply with the following if the project cost is \$10,000 or more:

- (a) Prior to issuance of a building permit, the applicant will be required to attest that they have notified all adjacent property owners within 200 feet of the applicant's property by U.S. mail to make them familiar with the proposed construction and to provide them with contact information for the applicant and their contractor.
- (b) Work at construction sites shall be limited to 7am to 9pm Monday through Friday and 8am to 7pm on weekends and holidays.
- (c) The applicant shall submit a construction site management plan as outlined in subdivision 2 of this section.
- (d) Off-street parking of construction vehicles and equipment will be provided. If on-street parking is demonstrated to be necessary, it may be done only by a parking permit first obtained from the city. The city may impose such conditions on said parking permit as the city zoning administrator or city clerk deems necessary. Any street parking will be limited to one side of the street, preferably adjacent to the construction site. The permit fee shall be determined by the city council and set forth in chapter 5 of this code book.
- (e) All equipment shall be stored within the confines of the construction site. If necessary, a property line fence will be required to prevent construction vehicles, materials, or other debris from encroaching onto adjacent properties.
- (f) A functioning enclosed toilet and a minimum of one dumpster are required on the site prior to commencement of construction activity. These are to be considerably placed in relation to adjacent properties.
- (g) Daily site clean up of debris and garbage is required.
- (h) Weekly street cleaning is required to remove all dirt, mud and debris from public streets caused by the construction project. City staff will monitor the condition of public streets and may require more frequent street cleaning.
- (i) For activities disturbing an area of 5,000 square feet or greater or involving the grading, excavating, filling, or storing on site of 50 cubic yards of soil or more, applicants shall provide evidence that the proper permits have been issued by Minnehaha Creek Watershed District.

(THIS SUBDIVISION AMENDED BY ORD 253, APR 2016)

Subd. 2. Construction Site Management Plan. The construction site management plan is a stand-alone document and shall include the following:

- A) A site plan showing:

- 1) Site address.
 - 2) Names, addresses and telephone numbers of construction manager responsible for preparing the construction site management plan.
 - 3) Site property lines.
 - 4) Location of proposed buildings and structures on site.
 - 5) Identification and location of all significant natural boundaries/buffers to neighboring properties.
 - 6) All property line fencing and erosion control fencing.
 - 7) Location of soil stockpiling.
 - 8) Locations of the temporary toilet, if required, and dumpster.
 - 9) Site entrance and on-site parking areas, and/or proposed street parking plan.
 - 10) A completed tree preservation plan as required by section 1140.80, subdivision 6 of the zoning code.
- B) A completed shoreland management worksheet.
- C) Water management plan. Prior to commencing construction, the applicant shall prepare and submit a water management plan. The plan shall a) illustrate silt fencing and describe plans to implement watershed regulatory requirements, (all applicable regulations shall be itemized in an addendum); b) illustrate before and after construction grades, water drainage patterns, and estimated volume and direction/path of water emanating from the property during typical heavy seasonal rains; c) describe and illustrate engineering necessary to manage, contain, or redirect water to prevent water from being concentrated, increased or accelerated onto neighboring properties, both during and after the conclusion of the planned construction; d) adhere to the requirements of *Section 1140.17. Stormwater Management*, when applicable. The city engineer may require of the applicant a) additional engineering or survey data, b) water plan management revisions, c) temporary or final grade changes, d) drainage control structures, and e) such other requirements as the city engineer, in their sole discretion, may deem necessary. No construction activity or grading which in the opinion of the city engineer will significantly increase, concentrate, or accelerate water onto neighboring properties, either during or after construction, shall be permitted.

(THIS SUBDIVISION AMENDED BY ORD 253, APR 2016)

SECTION 310. SEWERS.

Section 310.00. Connection Permit.

Subd. 1. A permit must be obtained to connect the sewer at existing wyes, risers, or service lines. The fee for such permit shall be set by the city council and set forth in chapter 5 of this code book. In addition, a fee that shall be known as the "metropolitan sewer availability charge" shall be paid as currently set.

Subd. 2. Additional charges shall be made and collected for tapping and making connections with the sewer main where a house connection is not installed. The amount to be charged shall be fixed by the city council based upon the cost of installing the service.

Section 310.05. Sewer Connection Required.

Subd. 1. No occupant of any property producing domestic or industrial wastes shall allow said wastes to be produced upon said, unless the sewer system of said property is connected to the municipal sewer system.

Section 310.10. Property Assessments.

Subd. 1. No permit to connect to the sewer shall be issued unless the city clerk shall have certified:

- (a) That the lot or tract of land, or portion of lot or tract of land, to be served by the connection has been assessed for its share of the cost of construction of the sewer system; or
- (b) If no such assessment has been levied, that proceedings for levying such assessment have been commenced or will be commenced in due course in the near future; or
- (c) That a sum equal to the portion of cost of constructing the sewer system that would be assessable against said lot or tract has been paid to the city.

Subd. 2. If no such certificate can be issued by the city clerk, no permit to connect to the sewer shall be issued unless the applicant shall pay an availability fee, which shall be equal to the portion of the cost of construction of said sewer system, which would be assessable against said lot or tract to be served by such connection. Said availability fee is to be determined by the city engineer upon the same basis as assessments most recently levied against other property

for the said sewer system. If no such assessment has been levied, the availability fee will be determined upon the basis of the uniform charge which may have been or which shall be charged for similar connections determined on the basis of the total assessable cost of said sewer system to which shall be added interest from the date of assessment thereof, at the same rate therein but not to exceed 100% thereof. Any sum received by the city under this subdivision shall be paid into a sewer utility account and the lot or tract, or portion thereof, shall be deemed to have been assessed for the improvement to the same extent as other similarly served and situated tracts. Said sum may be paid in cash or spread at interest upon an installment note for not more than 5 years.

Section 310.30. Use of Sewers.

Subd. 1. Definitions. See chapter 12 for definitions.

Subd. 2. Use of Public Sewers Required.

- (a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the city any sewage, industrial wastes, garbage or other polluted waters or wastes.
- (b) It shall be unlawful to discharge to any natural outlet within the jurisdiction of the city any sewage, industrial wastes, garbage or other polluted waters or wastes.
- (c) It shall be unlawful for any person to repair, construct, reconstruct or pump a private sewer system where public sewer is available, without permission of the city clerk.

Subd. 3. Building Sewers and Connections.

- (a) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city clerk.
- (b) All costs and expenses incident to the installation and connection of a building sewer shall be borne by the person making the installation and connection. The person shall indemnify and hold harmless the city from any loss, claim, damage or expense that may, directly or indirectly, be occasioned by the installation and connection of a building sewer.
- (c) Old building sewers may be used in connection with new buildings only when they are found to meet all of the requirements of the building and plumbing code and the utility regulations of the city.
- (d) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, place of the pipe, jointing, testing and back filling the trench, shall all conform to the requirement of the building and plumbing code and the utility regulations of the city.
- (e) No person shall connect, directly or indirectly, roof downspouts, exterior foundation drains, areaway drains or other sources of stormwater, ground water, roof runoff, surface water and unpolluted drainage to a building drain which, in turn, is connected, directly or indirectly, to a public sanitary sewer.
- (f) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code and the utility regulations of the city. Any deviation from the prescribed procedures and materials must be approved in writing by the city engineer before installation and connection. The property owner shall pay all city engineer fees related to reviewing the deviation from the prescribed procedures and materials.
- (g) All excavations for building sewer installation shall be adequately guarded with barricades and lights by the person making the installation so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city by the person making the installation.

Subd. 4. Prohibited Discharges Into Sanitary Sewer System and Natural Outlets.

- (a) No person shall discharge or cause to be discharged any substance not requiring treatment or any substance not acceptable for discharge, as determined by the city, Metropolitan Council, or the Minnesota Pollution Control Agency, into the sanitary sewer system. Only sanitary sewage from approved plumbing fixtures may be discharged into the sanitary sewer system.
- (b) Stormwater, ground water, roof runoff, surface water, or unpolluted drainage shall be discharged only to specifically designated storm drains or to a natural outlet approved by the city engineer.
- (c) No person shall discharge or cause to be discharged any of the following waters or wastes to any public sewer:
 - 1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases.

- 2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a nuisance or to create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 milligrams per liter as CN in the wastes as discharged to the public sewer.
 - 3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works or the sewage treatment plant.
 - 4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works or sewage treatment plant such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, garbage, whole blood, manure, hair and fleshing, entrails, and any paper dishes, cups, or other paper containers or paper products, whether whole or ground by garbage grinders.
 - 5) Other substances in amounts in excess of the concentrations permitted under rules and regulations of the metropolitan sewer board.
- (d) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer unless such person has obtained a permit from the Metropolitan Council specifically authorizing the discharge of such water or waste and unless the conditions, if any, set forth in the permit have been and are complied with by such person:
- 1) Any waters or other liquid or vapor having a temperature higher than 150° Fahrenheit (65°C).
 - 2) Any waters or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32° and 150° Fahrenheit (0°C and 65°C).
 - 3) Any garbage that has not been properly shredded.
 - 4) Any waters or wastes containing pickling wastes or concentrated plating solutions.
 - 5) Any waters or wastes containing iron, chromium, copper, zinc and similar substances in such concentration so as to cause the waters or wastes to be objectionable or toxic.
 - 6) Any waters or wastes exerting a chlorine requirement or demand such that when the waters or wastes are received in the composite sewage at the sewage treatment plant, the chlorine requirement or demand of the composite sewage exceeds reasonable limits.
 - 7) Any waters or wastes containing phenols or other taste or odor producing substances in concentrations which exceed reasonable limits in view of the applicable requirements of the state, federal or other public agencies having jurisdiction over effluent discharge to the receiving waters.
 - 8) Any radioactive wastes or isotopes of such half-life or concentration as may exceed reasonable limits in view of the applicable state or federal regulations.
 - 9) Any waters or wastes having a pH in excess of 9.5.
 - 10) Materials that exert or cause: i.) concentrations of inert suspended solids, such as, but not limited to, fullers earth, sand, lime, slurries and lime residues, or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate, which are likely to be harmful to the sewer, sewer works or sewage treatment plant. ii.) excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions. iii.) unusual BOD or chemical oxygen demand in such quantities as to constitute a significant load on the sewage treatment plant. iv.) unusual volume of flow or concentration of waters or wastes constituting "slugs" as defined herein.
- (e) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes utilized by sewage treatment plants, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the state, federal or other public agencies having jurisdiction over effluent discharge to the receiving waters.
- (f) Where pretreatment or flow-equalization facilities and/or where grease, oil or sand interceptors are provided for any waters or wastes, such facilities and/or interceptors shall be maintained continuously in satisfactory and effective operation by the user thereof and at no expense to the city.
- (g) The owner of any property having a building sewer into which industrial wastes are discharged or caused to be discharged, shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the city engineer. The structure shall be installed by the owner at their expense, and shall be maintained by them so as to be safe and accessible at all times. The owner shall pay all city engineer fees to review the plan.

- (h) All measurements, tests and analyses of the waters and wastes discharged or caused to be discharged to a public sewer shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control structure provided, or in the event that no special control structure has been provided, at the nearest downstream manhole in the public sewer from the point at which the building sewer is connected to the public sewer. Sampling shall be carried out by customarily accepted methods under the direction of the city engineer to reflect the effect of the waters and wastes upon the sewers, sewage works and the sewage treatment plant and to determine the existence of hazards to public health, safety and welfare.
- (i) Notwithstanding any other provision hereof, the city may enter into a valid agreement with any person whereby industrial wastes and/or sewage of unusual strength or character may be discharged to a public sewer and accepted by the sewage treatment plant, subject to the payment of special charges to the city thereof by the person; and provided that the city shall give its prior, written approval to the special agreement.

Subd. 5. Prohibited Discharges of Stormwater, Surface Water, Groundwater, Roof Runoff, Subsurface Drainage, or Cooling Water and Discharge to Any Sanitary Sewer.

- (a) No person shall discharge or cause to be discharged, directly or indirectly, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, foundation drain systems, or cooling water to any sanitary sewer. Any person having a roof drain, sump pump, unauthorized swimming pool discharge, cistern overflow pipe or surface drain connected and/or discharging into the sanitary sewer shall disconnect and remove any piping or system conveying such water to the sanitary sewer system.
- (b) All construction involving the installation of clear water sump pits shall include a sump pump with minimum size 1-1/2 inch diameter discharge pipe. The pipe attachment must be a rigid permanent type plumbing such as PVC or ABS plastic pipe with glued fittings, copper or galvanized pipe. All discharge piping shall be installed in accordance with the building code. Discharge piping shall start at the sump pit and extend through the exterior of the building and terminate with not less than 6 inches of exposed pipe. Sump pump discharge location and flow shall be consistent with the approved development drainage plan for the lot. The discharge may not be pumped directly onto any public right-of-way unless approved by the city engineer or their designee. Any disconnects or openings in the sanitary sewer shall be closed and repaired in compliance with applicable codes.
- (c) Every person owning improved real estate which discharges into the city's sanitary sewer system shall allow inspection by authorized city employees or its agents of all properties or structures connected to the sanitary sewer system to confirm there is no sump pump or other prohibited discharge into the sanitary sewer system. Any persons refusing to allow their property to be inspected shall immediately become subject to the surcharge as described in subsection (f) hereinafter.
- (d) From time to time the city council may institute the following procedure to ensure compliance with section 310.30, subdivision 5:
 - (i) A sanitary sewer discharge certification letter with a return certification form shall be sent to every person owning improved real estate property that discharges into the city's sanitary sewer system.
 - (ii) Property owners must return the completed certification form within 14 days of the certification letter notification date. Any property owner that does not return a fully completed certification form by the deadline will incur a surcharge fee on their quarterly sewer utility bill as established in subsection (f) and set forth in chapter 5.
 - (iii) If a property owner requests assistance in completing the certification form or an inspection to determine where roof drains, foundation drains, or sump pumps feed, the inspection will be provided at no cost to the property owner.
 - (iv) If a property owner declares they have roof drains, foundation drains, or sump pumps that are connected to the sanitary sewer, they shall have 90 days from the date of mailing of the city's sanitary sewer discharge certification letter to remove all such connections.
 - (v) If a property owner certifies that their property has no roof drains, foundation drains, or sump pumps connected to the sanitary sewer system and it subsequently is discovered that the property is not in compliance with this code or otherwise has unlawful discharges, the property owner shall be back-charged to the date of the completed certification form on file, a surcharge fee, double that provided in paragraph (ii) above, shall be assessed, and prosecution for violation of this code, (as permitted in paragraph (h) below), may follow.

(PARAGRAPH (D) AMENDED BY ORD. 210 JULY 2012)

- (e) Upon verified compliance with this section, the city reserves the right to re-inspect such property or structure at least annually to confirm continued compliance. Any property found not to be in compliance upon re-inspection or any person refusing to allow their property to be re-inspected shall, following notification from the city, comply within 14 calendar days or be subject to the surcharge as provided in subsection (f) hereinafter.
- (f) A sewer non-compliance surcharge fee per quarter is hereby imposed and shall be added to every residential and commercial property utility billing issued to property owners who are found not in compliance with this section. The sewer non-compliance surcharge fee amount shall be determined by the city council and set forth in chapter 5 of this code book. If a property owner certifies that their property is in compliance and it subsequently is discovered that they were not in compliance, the property owner will be back-charged to the date of certification and the surcharge fee will double. (THIS PARAGRAPH AMENDED ORD. 210 JULY 2012)
- (g) The city council, upon recommendation of the city engineer, shall hear and decide requests for temporary waivers from the provisions of this section where strict enforcement would cause a threat to public safety because of circumstances unique to the individual property under consideration. Any request for a temporary waiver shall be submitted to the city engineer in writing. Upon approval of a temporary waiver from the provisions of this section, the property owner shall agree to pay an additional fee for sanitary sewer services based on the number of gallons discharged into the sanitary sewer system as estimated by the city engineer.
- (h) Violation of this section is a misdemeanor and each day that the violation continues is a separately prosecutable offense. The imposition of the surcharge shall not limit the city's authority to prosecute the criminal violations, seek an injunction in district court ordering the person to disconnect the nonconforming connection to the sanitary sewer, or for the city to correct the violation and certify the costs of connection as an assessment against the property on which the connection was made.

Section 310.35. Right to Enter.

The duly authorized employees or representatives of the city bearing proper credentials and identification shall have the right to enter all properties served by the city's sewer system for the purpose of inspection, observation, measurement, sampling and testing in accordance with and for the purpose of enforcing the provisions of this ordinance. The employees or representatives shall have the power and authority to obtain a warrant to secure entry onto a property and shall obtain a warrant to enter any property upon which entry is or has been refused. The employees or representatives shall have no authority to inquire into any industrial processes beyond that point in the process having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for treatment.

Section 310.40. Discontinuance of Service.

Sewer service shall be discontinued when it is determined that a sum equal to the portion of the cost of constructing the sewer system attributable to the parcel or property as determined by the assessment proceedings or pursuant to the provisions of this code has not been paid or is not in the process of being paid in regular installments.

Section 310.45. Liability.

Each user or owner shall be responsible for maintaining and cleaning their sewer connection from the house to the sewer main. The city shall not be liable for any stoppages in the sewer system. Each user should provide a suitable backwater valve to prevent flooding of basements in the event of sewer stoppage.

Section 310.50. One House Per Connection.

Not more than one house or building shall be supplied from one sewer connection, except with the permission of the city engineer.

Section 310.55. Building Sewers.

Subd. 1. All building sewer connections must be made to the wye or riser provided for that purpose. No sewer connection shall be laid in the same trench with water, gas or any other pipe, and all sewer connections must be laid far enough from all others to permit the repair or removal or relaying of any one without disturbing the other, unless an alternate method is approved by the city engineer.

Subd. 2. At the time any connection is made to the city sanitary sewer system, all cesspools, septic tanks, or other sewage disposal facilities existing on the property that is connected shall be pumped and then filled to earth level with suitable material. Piping through cesspools or septic tanks will not be permitted, and connections to buildings with

existing cesspools and septic tanks shall be on the house side of the cesspools or tank, unless an alternate method is approved by the city engineer.

Subd. 3. All sewer connections shall be made by a competent property or licensed contractor. Building sewers shall conform with all utility regulations as to materials, depths of cover slope, and water tightness. No connection shall be covered or otherwise concealed from sight until inspected and approved by the city inspector. A drawing of the location of the sewer connection from the house to the sewer main as built shall be furnished by the owner and maintained by the city in its files.

Section 310.56. Sanitary Sewer Utility Fund.

Subd. 1. Authority and Purpose. Minnesota statutes section 444.075 permits a municipality to build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain sanitary sewer facilities, and maintain and operate the necessary sanitary sewer facilities inside or outside its corporate limits, and acquire by gift, purchase, lease, condemnation, or otherwise any and all land and easements required for that purpose. For purposes of this ordinance “sanitary sewer” means sanitary sewer systems, including sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, or other wastes as may be established by the city from time to time.

Subd. 2. Sanitary Sewer Utility Established. A sanitary sewer utility is hereby established. The sanitary sewer utility shall be operated as a public utility pursuant to Minnesota statutes section 444.075. Pursuant to said authority the city shall charge residential, commercial, and industrial customers a quarterly charge to offset sanitary sewer expenses of the city including Metropolitan Council, state, and federally mandated procedures, testing, and servicing costs relating to sanitary sewer and related facilities and utilities.

Subd. 3. General Provisions.

- A. *Sanitary Sewer Utility Fund.* The city shall retain all sanitary sewer utility fees within a sanitary sewer utility fund approved by the Greenwood city council for sanitary sewer expenses including: planning, engineering, monitoring, capital expenditures, personnel expenses, equipment, and operation of the utility in accordance with the established city policy.
- B. *Exceptions.* The following land uses are exempt from sanitary sewer utility fees:
- (a) Public rights of way.
 - (b) Unimproved real estate tax parcels employed for agricultural purposes only.
 - (c) Lakes.
 - (d) Wetlands.
 - (e) Municipal owned property, municipal parks.

Subd. 4. Sanitary Sewer Utility Fees, Rates, and Charges.

Sanitary sewer utility fees shall be a charge against the owner of the real property benefited/charged, computed for quarterly payments, invoiced with the stormwater / sewer / recycling bills.

- A. *Fixing Sanitary Sewer Charges.* Sanitary sewer utility fees may be fixed at the election of the city council (a) on the basis of water consumed, if municipal water service is provided by the city, or (b) by reference to a reasonable classification of the types of premises to which service is furnished or (c) by reference to the quantity, pollution qualities, and difficulty of disposal of sewage produced, without limit.
- B. *Residential Sanitary Sewer Utility Fees.* For the purpose of sanitary sewer charges against residential use properties, each single-family residential dwelling, and each separate residential dwelling unit within a multiple dwelling residential building or apartment, shall constitute one “residential sanitary sewer service unit.” Sanitary sewer utility fees shall be set by the city council on a per residential sanitary sewer service unit basis.
- C. *Commercial Sanitary Sewer Utility Fees.* Sanitary sewer charges against commercial use properties shall be on a per “commercial sanitary sewer service unit” basis. Commercial properties shall be subject to charges for multiple commercial sanitary sewer service units within the boundaries of any given tax parcel equal to the total number or fraction thereof of commercial sanitary sewer service units contained therein. A “commercial sanitary sewer service unit” means:
- (a) each 2000 square feet or fraction thereof of gross building floor space of a structure used for office or retail,
 - (b) each 64 theater seats or fraction thereof of buildings used as theaters or dinner-theaters,
 - (c) each 8 seats or fraction thereof within a County Health Department licensed restaurant,
 - (d) each 20 authorized boat slips or fraction thereof within in a city licensed marina, or

- (e) each 2000 square feet or fraction thereof of gross building floor space used for commercial purposes not otherwise addressed by the foregoing categories.
- C. *Mixed Use Properties.* Properties which are host to a combination of uses shall be charged the highest combined sewer fee calculated by applying the definitions under this section, provided that in no event shall theaters be subject to an additional charge for the availability of dining services.
- D. *Sanitary Sewer Availability Minimum Charges.* A minimum charge for the availability of water or sewer service may be imposed for all premises abutting on streets or other places where municipal or county water mains or sewers are located, whether or not connected to them. Minimum charges or user charges collected for sanitary sewers must be used only to pay for items for which charges are authorized by Minnesota statutes section 444.075, subd. 3, as amended.
- E. *Sanitary Sewer Facilities' Connection Charges.* Charges for connections to the sanitary sewer facilities may in the discretion of the city council be fixed by reference to the portion of the cost of connection which has been paid by assessment of the premises to be connected, in comparison with other premises, as well as the cost of making or supervising the connection.
- F. *Factors in Determining Fees.* In determining sanitary sewer utility fees, the city council may give consideration to all costs of the establishment, operation, maintenance, depreciation, and necessary replacements of the system, and of improvements, enlargements, and extensions necessary to serve adequately the territory of the city, including the principal and interest to become due on obligations issued or to be issued and the costs of obtaining and complying with permits required by law.

Subd. 5. *Delinquent Accounts.* All charges for sewer shall be due within 30 days of mailing of the statement of charges, and shall be delinquent thereafter. It shall be the duty of the sanitary sewer utility to endeavor to promptly collect delinquent accounts, and in all cases where satisfactory arrangements for payment have not then been made, instructions may be given to discontinue service by shutting off the water at the stop box, if city water is in use. Any sanitary sewer utility fees 60 or more days past due as of September 15, of any year, may be certified to the county auditor for collection with real estate taxes of the real property in the following year pursuant to Minnesota statutes section 444.075, subdivision 3. In addition, the city also may assess and collect unpaid fees and delinquency charges related thereto by ordinance memorialized in chapter 5 of this code book. Such action may be optional or subsequent to taking legal action to collect delinquent accounts. (THIS PARAGRAPH AMENDED BY ORD. 211, JULY 2012)

Subd 6. *Adjustment of Fees.* The city council may increase, diminish, or change the amount and basis of sanitary sewer utility fees from time to time. Fees so adopted shall be memorialized by ordinance in chapter 5 of this code book.

(SECTION 310.56 MOVED FROM CHAPTER 5 PER ORDINANCE 254, APR 2016)

Section 310.60. Accounts.

All accounts shall be kept on the books of the sewer utility by the house and street number and under the account number assigned thereto and the name of the owner or of the person signing the application for service. All bills and notices sent out by the sewer utility shall be sent to the property owner. If non-resident owners or agents desire personal notice sent to a different address, they shall file an application therefor with the sewer utility. Any error in address shall be promptly reported to the sewer utility.

Section 310.65. Violations.

If a violation is of continuing nature, each 24-hour period that the violation shall continue, shall constitute a separate violation of this ordinance.

Section 310.70. Remedies.

Subd. 1. Each person who connects with a public sewer located in the city shall be deemed to have agreed to and shall indemnify and hold harmless the city with respect to all costs, damages and expenses, including penalties and special charges assessed by the sewage treatment authority against the city resulting, directly or indirectly, from a violation of a provision(s) of section 310.30, subdivisions 1 through 4, inclusive, hereof, and shall be deemed to have agreed that all such costs, damages and expenses may be charged as an addition to the regular charge for the sewage services provided for the property from which the waters or wastes violating these provisions were discharged.

Subd. 2. Notwithstanding any other provisions hereof, the city shall have the right to institute an action to seek injunctive relief from a continuing violation of the provisions of section 310.30, subdivision 1 through 4, inclusive, hereof and/or shall have the right to institute an action for all costs, damages and expenses resulting, directly or indirectly, from a violation of these provisions.

SECTION 311. STORMWATER.

Section 311.00. Reserved.

Section 311.10. Stormwater Management Utility Fund.

Subd. 1. Authority and Purpose. Minnesota statutes section 444.075 permits a municipality to build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain storm sewer facilities, and maintain and operate the necessary storm sewer facilities inside or outside its corporate limits, and acquire by gift, purchase, lease, condemnation, or otherwise any and all land and easements required for that purpose. For purposes of this ordinance "Storm sewer" means storm sewer systems, including mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of stormwater as may be established by the city from time to time (herein after "stormwater management").

Subd. 2. Stormwater Management Utility Established. A stormwater management utility is hereby established. The stormwater management utility shall be operated as a public utility pursuant to Minnesota statutes section 444.075. Pursuant to said authority the city shall charge residential, commercial, and industrial customers a quarterly charge to offset stormwater management expenses of the city including local watershed, state, and federally mandated procedures relating to stormwater management and related facilities and utilities.

Subd. 3. General Provisions.

A. *Stormwater Management Utility Fund.* The city shall retain all stormwater management utility fees within a stormwater management utility fund approved by the Greenwood city council for stormwater management expenses including: planning, engineering, monitoring, capital expenditures, personnel expenses, equipment, and operation of the utility in accordance with the established city policy.

B. *Exceptions.*

The following land uses are exempt from stormwater management utility fees:

- (a) Public rights of way.
- (b) Unimproved real estate tax parcels employed for agricultural purposes only.
- (c) That portion of real estate tax parcels subject to a conservation easement.
- (d) Tax parcels that do not have a residential or commercial building or accessory use.
- (e) Lakes.
- (f) Wetlands.
- (g) Municipal owned property, municipal parks.

Subd. 4. Stormwater Management Utility Fees, Rates and Charges. Stormwater management utility fees shall be a charge against the owner of the real property benefited/charged, computed for quarterly payments, and invoiced with the stormwater/sewer/recycling bills.

A. *Fixing Stormwater Management Charges.* Stormwater management utility fees shall be fixed by reference to a reasonable classification of the types of premises to which service is furnished such as residential or commercial. The city of Greenwood finds stormwater run off is typically directly related to total impervious surfacing or hardcover of a given property, that the typical hardcover of existing single family residential properties is approximately 30%, and that the typical hardcover of existing commercial and multiple dwelling residential buildings or apartments is approximately 90% or greater.

B. *Single and Duplex Family Residential Dwellings Stormwater Management Utility Fees.* For the purpose of stormwater management utility fees charged against single or duplex family residential use properties, each single family residential or duplex dwelling, shall constitute one "residential stormwater management service unit." Stormwater management utility fees shall be set by the city council on a per residential stormwater management service unit basis.

- C. *Commercial Properties and Multiple Dwelling Residential Buildings Stormwater Management Utility Fees.* Stormwater management utility fees charged against (a) commercial use properties and (b) multiple dwelling residential buildings or apartments shall be on a per “commercial stormwater management service unit” basis. The stormwater management utility fees for one commercial stormwater management service unit shall be equal to 3 times the stormwater management utility fees set and payable by one residential stormwater management service unit.
- D. *Factors in Determining Fees.* In determining stormwater management utility fees, the city council may give consideration to all costs of the establishment, operation, maintenance, depreciation, and necessary replacements of the system, and of improvements, enlargements, and extensions necessary to serve adequately the territory of the city, including the principal and interest to become due on obligations issued or to be issued and the costs of obtaining and complying with permits required by law.

Subd. 5. Delinquent Accounts. All charges for stormwater management shall be due within 30 days of mailing of the statement of charges, and shall be delinquent thereafter. It shall be the duty of the stormwater management utility to endeavor to promptly collect delinquent accounts. Any stormwater management utility fees 60 or more days past due as of September 15, of any year, may be certified to the county auditor for collection with real estate taxes of the real property in the following year pursuant to Minnesota statutes section 444.075, subdivision 3. In addition, the city also may assess and collect unpaid fees and delinquency charges related thereto by ordinance memorialized in chapter 5 of this code book. Such action may be optional or subsequent to taking legal action to collect delinquent accounts.

(THIS SUBDIVISION AMENDED BY ORD. 211, JULY 2012)

Subd. 6. Adjustment of Fees. The city council may increase, diminish, or change the amount and basis of stormwater management utility fees from time to time. Fees so adopted shall be memorialized by ordinance in chapter 5 of this code book.

(THIS SECTION 311.10 MOVED FROM CHAPTER 5 PER ORD 252, APR 2016)

Section 311.20. Illicit Discharge Detection and Elimination.

Section 311.20.01. Purpose and Objectives.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the city of Greenwood through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by state and federal law. This ordinance establishes methods for controlling the introduction of pollutants into the City of Greenwood’s municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater System permit process. The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user.
- B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance.

Section 311.20.02. Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 311.20.03. Responsibility for Administration.

The city of Greenwood shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the MPCA may be delegated in writing by the city engineer of Greenwood to persons or entities acting in the beneficial interest of or in the employ of the city.

Section 311.20.04. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 311.20.05. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 311.20.06. Discharge Prohibitions.

Subd. 1. *Prohibition of Illegal Discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or Waters of the State any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated - typically less than 0.1 PPM free chlorine), firefighting activities, and any other water source not containing Pollutants.
- (b) Discharges specified in writing by the MPCA as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the city engineer 48-hours prior to the start of the test.
- (d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Subd. 2. *Prohibition of Illicit Connections.*

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Municipal Stormwater System, or allows such a connection to continue.

Subd. 3. *Sump Pump and Drain Tile Discharges.*

- (a) The construction, use, maintenance or continued existence of piping of private sump pump and/or drain tile discharges to a surface outlet that directs flow to the city right of way is prohibited unless a permit is obtained from the city engineer and the conditions of said permit are met.
- (b) Connection of private sump pump and/or drain tile lines to public storm sewers is prohibited unless a permit is obtained from the city engineer and the conditions of said permit are met.

Section 311.20.07. Suspension of Municipal Stormwater System Access.

Subd. 1. *Suspension Due to Illicit Discharges in Emergency Situations.* The city of Greenwood may, without prior notice, suspend Municipal Stormwater System discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Municipal Stormwater System or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the Municipal Stormwater System or Waters of the State, or to minimize danger to persons.

Subd. 2. *Suspension Due to the Detection of Illicit Discharge.* Any person discharging to the Municipal Stormwater System in violation of this ordinance may have their Municipal Stormwater System access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its Municipal Stormwater System access.

Subd. 3. *Offense*. A person commits an offense if the person reinstates Municipal Stormwater System access to premises terminated pursuant to this section, without the prior approval of the city.

Section 311.20.08. Industrial or Construction Activity Discharges.

Any person subject to an Industrial or Construction Activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to city prior to the allowing of discharges to the Municipal Stormwater System.

Section 311.20.09. Monitoring of Discharges.

Subd. 1. *Applicability*. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

Subd. 2. *Access to Facilities*.

- (a) The city shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (b) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of the NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (c) The city shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (d) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy per manufacturer's recommendations.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the city access to a permitted facility is a violation of the stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (g) If the city has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

Section 311.20.10. Requirement to Prevent, Control, and Reduce Stormwater Pollutants By the Use of Best Management Practices.

The city of Greenwood has adopted requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or Waters of the State through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 311.20.11. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 311.20.12. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or Waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such a release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city of Greenwood within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 311.20.13. Enforcement.

Whenever the city of Greenwood finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the city may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) The violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs; and
- (g) The deadline within which to remedy the violation.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 311.20.14. Appeal of Notice of Violation.

Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received by the city within 15 days from the date of the notice of violation. The appeal shall be heard by the city council within 30 days from the date of receipt of the notice of appeal. The decision of the city council shall be final.

Section 311.20.15. Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within the deadline extended by the decision of the city council, then representatives of the city shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above.

Section 311.20.16. Cost of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs and the deadline to pay the abatement costs. The property owner may file a written protest objecting to the costs and payment terms of the abatement within 15 days. The appeal shall be heard by the

city council within 30 days from the date of receipt of the notice of appeal. If the amount due is not paid within a timely manner as determined by the decision of the city council after hearing the appeal, the charges be filed with Hennepin County and shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Section 311.20.17. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 311.20.18. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 311.20.19. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 311.20.20. Criminal Prosecution.

Any person that violates this ordinance shall be shall be deemed guilty of a misdemeanor and upon conviction thereof, may be subject to the maximum fine and imprisonment allowed by State law. Each such violation shall constitute a separate offense punishable to the maximum extent of the law. The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 311.20.21. Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.
(THIS SECTION 311.20 ADDED PER ORD 254, APR 2016)

SECTION 312. MUNICIPAL WATER SERVICE.

Section 312.00. Purpose.

In order to provide the convenience of water service, the city of Greenwood entered into agreement with the city of Excelsior (water provider) to provide water service to certain properties located within the city of Greenwood.

Section 312.05. Ownership and Installation of Water System.

Greenwood does not own any of the related pipes or water system infrastructure currently in place in Greenwood. When a water system is installed in the city, the watermain shall include stubs for each property tax parcel along the length of the improvement.

Section 312.10. Governing Code.

Properties located in Greenwood served by the water provider's system (Greenwood customers) shall be subject to the provisions of the water provider's city code as enacted or amended from time to time regarding water service, as may be regulated by underlying city-to-city governing agreements. These include, but are not limited to, provisions relating to connection fees, connection construction requirements, maintenance and repair requirements, emergency shut-offs, water service pipes, metering, water billing, and rates. Any changes that the water provider makes to their water system ordinances also shall apply to Greenwood customers of same.

Section 312.15. Connection Required Within 10 Years.

Property owners abutting the water provider's system must connect to the watermain stubs and become a paying customer of the water provider no later than 10 years after completion of the watermain installation.

Section 312.20. Service Connection Fee and Water Meters.

At the time of connection, individual property owners abutting the watermain extension shall be responsible for paying to the water provider a water connection permit fee and a water meter purchase fee. No permit to connect to the water system shall be issued unless the Greenwood city clerk has certified:

- (a) That the lot or tract of land, or portion of lot or tract of land, to be served by the connection has been assessed for its share of the cost of construction of the water system; or
- (b) If no such assessment has been levied, that proceedings for levying such assessment have been commenced or will be commenced in due course in the near future; or
- (c) That a sum equal to the portion of cost of constructing the water system that would be assessable against said lot or tract has been paid to the city.

If no such certificate can be issued by the city clerk, no permit to connect to the water system shall be issued unless the applicant shall pay an availability fee, which shall be equal to the portion of the cost of construction of said water system, which would be assessable against said lot or tract to be served by such connection. Said availability fee is to be determined by the city engineer upon the same basis as assessments most recently levied against other property for the said water system. If no such assessment has been levied, the availability fee will be determined upon the basis of the uniform charge which may have been or which shall be charged for similar connections determined on the basis of the total assessable cost of said water system to which shall be added interest from the date of assessment thereof, at the same rate therein but not to exceed 100% thereof. Any sum received by the city shall be paid into the city's general fund and the lot or tract, or portion thereof, shall be deemed to have been assessed for the improvement to the same extent as other similarly served and situated tracts. Said sum may be paid in cash or spread at interest upon an installment note for not more than 10 years.

Section 312.25. Water Rates & Billing.

By agreement with the city of Excelsior, Excelsior will bill water services rendered to Greenwood customers at the established non-resident rate provided that the non-resident base rate shall not be more than 121% of the resident base rate as established from time to time by the water provider, and the non-resident usage rates shall not be more than 107% of the resident usage rates as established from time to time by Excelsior. In the event that Excelsior finds it necessary to add a surcharge to the water service fees charged to their in-town customers, a like fee may be charged to Greenwood customers.

Section 312.30. Water Service Invoicing and Delinquent Accounts.

Greenwood customers shall be invoiced directly by the water provider for water services. In the event a Greenwood customer fails to pay invoiced water service fees and the water provider notifies Greenwood of such delinquency, Greenwood shall notice the delinquency to the respective property owner, and, if not timely paid, certify the delinquency to the respective property's real estate taxes for payment as provided by law. In the event Greenwood receives payment on a delinquent account in advance of the deadline for submission to the county for certification as a special assessment, Greenwood shall, within 30 days, pay to the water provider the monies received related to such delinquency without deduction or charge. Greenwood shall continue this process as needed to collect the full delinquency. Costs associated with the process of certification by Greenwood may be added to the certification of assessment and, on receipt, retained by Greenwood. Nothing herein shall prevent the water provider from taking other steps authorized by law (including, but not limited to, shutting off water service) to ensure payment of water service fees by Greenwood customers.

Section 312.35. Right of Entry Powers.

Authorized water provider employees shall have access at reasonable hours of the day to all buildings and premises connected to the water system as necessary for reading of meters, periodic replacement of meters, and related inspection. Water provider employees shall be properly identified and shall display the identification upon seeking admittance to the building.

Section 312.40. Private Wells.

A private well may be maintained for exterior uses such as lawn sprinkling or car washing. However, in no event shall there be a means of cross-connection between a private well and a municipal water system at any time. Greenwood

property owners served by a municipal water system are prohibited from drilling a new well upon failure of an existing well.

Section 312.45. Disclaimer of Liability.

The city and the water provider shall not be liable for any deficiency or failure in the supply of water to property owners or users, whether occasioned by shutting the water off for the purpose of making repairs or connections, or from any other cause whatsoever.

(SECTION 312 ADDED BY ORDINANCE 220, OCTOBER 2013)

SECTION 315. FIRE CODE.

Section 315.00. Adoption of the Amended Minnesota State Fire Code.

The city hereby adopts by reference, for the purpose of regulating and governing the safeguarding of life and property from fire and explosions hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city and providing for the issuance of permits for hazardous uses or operations, the Minnesota State Fire Code as amended, which shall specifically include the following:

1. Appendix A – Board of Appeals
2. Appendix B – Fire Flow Requirements for Buildings

(THIS SECTION AMENDED JUNE 2014, ORD 234)

Section 315.05. Enforcement.

The city hereby authorizes the Excelsior Fire District to enforce those terms of the Minnesota State Fire Code as adopted in this article within the city.

SECTION 320. RENTAL PROPERTIES.

Section 320.00. Purpose.

The city of Greenwood has determined that rental property registration, licensing, and minimum regulations governing the conditions and maintenance of rental properties, buildings, and structures are necessary to provide standards for the supply of utilities and facilities and other physical things and conditions essential to ensure that rental structures are safe, sanitary and fit for human occupation and use; and where necessary, to empower the city to condemn rental buildings and structures which are unfit for human occupancy and use and to demolish.

Section 320.05. Adoption of Rental Property Maintenance Code.

Subd. 1. General Requirements.

- (a) The requirements of this article apply to all buildings, structures and property within the city.
- (b) All buildings and portions of buildings, including mechanical, electrical, plumbing and other building systems, previously constructed or installed in accordance with city and state codes must be maintained in conformance with the requirements of the codes in effect at the time of construction or installation.
- (d) Specific requirements of other sections of this code, including, but not limited to, zoning, fire and nuisances, shall supersede the general requirements of this article.
- (e) In cases where a conflict may occur between requirements of this article or other codes, the requirement providing the greatest degree of life safety, property maintenance and general welfare to the city shall govern.

Subd. 2. Code Adopted. The most current edition of the International Property Maintenance Code (hereinafter “IPM code”) as published by the International Code Council is adopted as the property maintenance code of the city, for the control of buildings and structures as provided in this section; and each and all of the regulations, provisions, penalties, conditions and terms of such code are referred to, adopted and made a part of this section, as if fully set out in this section, with the additions, insertions, deletions and changes as amended from time to time.

Subd. 3. Revisions. The following sections of the IPM code are revised as follows:

IPM Code Section 101.1. Title. Amended to read: These regulations shall be known as the Property Maintenance Code of the City of Greenwood, hereinafter referred to as “this code.”

IPM Code Section 102.3. Application of other codes. Amended to read: Repairs, additions or alterations to a structure or changes of occupancy shall be done in accordance with the procedures and provisions of the Minnesota state building code and the Greenwood ordinance code.

IPM Code Section 102.7. Referenced codes and standards. Amended to read: All references to other codes or standards within this code shall mean the applicable provisions of the Greenwood ordinance code or Minnesota state building code, whichever is the most restrictive requirement permitted under statute.

IPM Code Section 103.2. Appointment. Amended to read: The director of inspections shall be the zoning administrator.

(SUBDIVISIONS 2 AND 3 REVISED DECEMBER 2010)

Section 320.20. Savings Clause.

Nothing in this ordinance or in the property maintenance code hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 320.25. Disclaimer.

By the adoption of the IPM code as amended herein, the City of Greenwood does not guarantee nor does it assume responsibility or liability for the non-compliance of any particular property nor personal property damage or personal injury or death suffered by any person as a result of the entrance upon any property otherwise regulated hereby. The foregoing disclaimer, however, shall not prevent the city from enforcing the terms of this code by means as provided in said code. (REVISED DECEMBER 2010)

Section 320.30. Registration of Rental Properties Required.

Subd. 1. Prohibition. No person shall operate, let, or cause to be let any premises which is intended to be used as a habitable space, as defined under the IPM code, which has not been first registered with the office of the city clerk pursuant to this section and a valid license therefore obtained.

Subd. 2. Registration-License Application. A person desiring to register a habitable space as a dwelling unit shall submit the following information to the city clerk:

- (a) Name, address and telephone numbers of all owners of the premises. In the event the owner is a corporation, the applicant shall provide the names, addresses and telephone numbers of a designated property manager and all officers and directors of the corporation. If the owner is a partnership, the applicant shall provide the names, addresses, and telephone numbers of all partners and a designated property manager. If the owner is a limited liability company, the applicant shall provide the names, addresses, and phone numbers of all members and managing agents and a property manager.
- (b) Designation of a manager responsible for the premises including telephone numbers and fax numbers by which that person may be reached 24 hours a day including full name, address, date of birth, driver's license number and other identifying information of said manager.
- (c) The legal description of record of the premises on which the habitable space is located.
- (d) A floor plan illustration of the premises to be licensed. Said plan illustration shall specifically define each dwelling unit for which a license is requested and identify within each dwelling unit all sleeping areas, kitchens, bathrooms, dining rooms, living rooms, and the intended uses of all other spaces. Dwelling units may share common entryways, laundry facilities, storage areas, kitchens and garages.
- (e) A copy of the IPM code may be obtained from the city clerk on payment of a fee determined by the city council and set forth in chapter 5 of this code book.
- (f) Each applicant shall sign an acknowledgment that they have reviewed the IPM code, and verify that the property to be licensed complies with the requirements mandated by said code, as amended.
- (g) Applicants shall acknowledge and agree that the city may, at its sole election, enter the premises for the purpose of inspecting the property and/or demand that the property owner/applicant/license holder submit to the city a

written report from a certified property evaluator verifying that the dwelling unit meets all applicable requirements of the IPM code.

- (h) The applicant shall acknowledge that the maximum number of motor vehicles permitted to be parked, placed, or stored on any premises outside of a garage shall be no more than two motor vehicles per dwelling unit per premises.

Subd. 3. License Issuance. The city clerk, on receipt of a complete application (pursuant to subdivision 2 above) and payment of the license fee, shall issue the habitable space license for a fixed number of dwelling units per tax parcel. Licenses are issued per tax parcel not per dwelling unit. No license shall be issued to a property that is not in compliance with the IPM code.

Subd. 4. Limitation on Habitable/Dwelling Units. With the exception of legal nonconforming uses, no property shall be licensed for more dwelling units than are otherwise permitted within the zone where the premises is located.

Subd. 5. Regulation of Motor Vehicle Parking, Stopping, Standing and Storage. No property owner shall permit the standing, stopping, parking, storage or placement of any motor vehicle exterior to the structures of the property for more than eight hours in any 24-hour period in excess of two motor vehicles per dwelling unit per premises. The term "motor vehicle" is defined in chapter 12 of this code book. An automobile parking space is not less than 9 ft. x 20 ft.

Subd. 6. License Renewal. License renewal requests shall be made on or before November 1 annually. Upon the request for renewal of a dwelling unit license, the applicant shall verify that the premises containing the dwelling unit(s) meets the requirements of the IPM code and verify the information provided in the initial application per section 320.30 is correct. Subject to section 320.35, licenses of non-compliant properties in process of code compliance under section 320.35 may be renewed; licenses of non-compliant properties shall not otherwise be renewed.

Subd 7. Lease Term. In no event shall a residential rental property leasehold or sub-leasehold be for an initial term of less than 30 days, nor may such properties be leased to more than 2 tenant occupant groups in any one 4-month period. (THIS SUBD. ADDED BY ORD. 219)

Section 320.35. Code Verification and Compliance.

Subd. 1. The city may demand of the owner(s) of any premises which is allegedly used without license for lease or rental: 1) a sworn statement identifying in the premises each family residing including, but not limited to, names, ages, and relationship within 30 days of demand, 2) written verification of property compliance with the terms of the IPM code within 30 days of demand. The owner shall then secure the inspection of the premises by a certified property evaluator. A certified property evaluator is an individual licensed by the state of Minnesota to inspect housing for conformance with state building code or licensed by the city of Minneapolis or St. Paul for city property code compliance verification. All costs of such evaluation shall be paid by the property owner.

Subd. 2. The owner shall deliver the written verification of property compliance from a certified property evaluator to the city clerk. In the event the evaluation determines that the premises is in violation of the IPM code, the owner of the premises shall, within 120 days from the date of original city inspection demand, complete all necessary repairs, clean up or improvements required to bring the premises into compliance with the IPM code. Upon completion of such repair, clean up, or improvements, the property owner shall provide written verification from a certified property evaluator that the property has been brought into conformance with the IPM code.

Subd. 3. The city may, at any time, exercise its inspection rights provided under the IPM code and directly inspect a property using its own IPM code inspection agents or fire marshal. In the event IPM code violations are found, the city may enforce the code pursuant to the enforcement provisions therein. The city may suspend a license for failure to bring a property into compliance pursuant to section 320.35. A suspended license shall not be reinstated until such time as a certified property evaluator hired and paid by the property owner verifies to the city that the property is in conformance with the IPM code.

Subd. 4. Time Extension. In the event the property owner determines that the time necessary to bring the property into compliance will exceed 120 days from the original city demand for verification of property compliance and, provided that the matters of IPM code noncompliance are not life safety related, as determined by the code official, the property owner may, on written request, receive a 60-day extension for the completion of all repairs, clean up or improvements as may be required to bring the premises into conformance with the IPM code. No extension shall be granted for life safety code violations as determined by the code official. Nothing in this section shall prevent action by the city to enforce the IPM code presently when in the opinion of the code official such action is warranted.

Subd. 5. Emergency Code Enforcement. Nothing in this section shall prevent, delay or preclude action by the code official pursuant to IPM code when in the judgment of the code official such action is warranted.

Section 320.50. Non-Compliant or Unlicensed Properties.

Subd. 1. Any property let, or to be let, whose license has been suspended or has expired shall be subject to the IPM code and to enforcement of the IPM code.

Subd. 2. The letting of any habitable space within any premises without a license or while such license is suspended, or expired, shall constitute a misdemeanor for each day the premises is occupied.

Subd. 3. It shall be unlawful for any person to permit the occupancy of a premises as a habitable space which is otherwise uninhabitable or in violation of the IPM code.

Subd. 4. The property owner shall be responsible for the conduct of all persons, tenants, agents, or managers, which may give rise to any violation of the IPM code relative to their premises.

Subd. 5. It shall be unlawful to refuse to comply with a IPM code related compliance demand or request, or to refuse to verify or provide information on a property upon request.

Section 320.55. Application Fee/City Cost Recovery.

The license fee for a rental premises license shall be payable annually to the city. This fee may be changed from time to time and set forth in chapter 5 of this code book. Inspection and enforcement costs incurred by the city in conjunction with the inspection or enforcement of IPM code against any premises shall be due and payable by the property owner to the city on 30 days written demand by the city. Failure to pay shall be cause to assess the property in question all city costs incurred.

Section 320.60. Violations.

Any violation of this ordinance shall be a misdemeanor.

SECTION 335. TENNIS COURTS.**Section 335.00. Lights.**

No lights shall be installed to illuminate any tennis court without having first received special permission therefor from the city council, which will grant such permission only for the following conditions:

- (a) The lights are shaded to reflect away from adjoining premises.
- (b) The lights are not a nuisance to adjoining premises or the neighborhood.
- (c) The lights are to be of a low wattage.

SECTION 340. CABLE TELEVISION.**Section 340.00. Location of Cable.**

All persons, partnerships, or companies contracting to provide cable television services within the city shall in installing all necessary cable or signal service conform the placement of such cable or signal service to the in-place telephone transmission lines whether they be buried or otherwise.

SECTION 345. CONDOMINIUMS.**Section 345.00. Findings.**

The city council finds as follows:

1. There has developed in the Twin Cities metropolitan area a trend toward conversion of multiple occupancy dwellings to condominiums.
2. The costs of purchasing a unit, in many cases, is far greater than paying the monthly rental fee for the unit and it is often extremely difficult for the tenant to qualify for or get his or her finances in order quickly enough to determine whether purchasing a unit is economically feasible.
3. This situation can lead to the displacement or eviction of tenants, many of them elderly who have lived in their rental units for years with the intention of making their unit their permanent residence.

4. When they settle into their rental unit, in many cases, no representation was made to them that the former building ownership system might change, thus requiring a radically different financial outlay than originally anticipated.
5. Even the task of finding comparable rental housing elsewhere on short notice, and moving into it, will place a great burden on these tenants.
6. There exists in the city a significant shortage of rental dwellings as shown by the Greenwood comprehensive plan.
7. A need exists for legislation to afford individuals or families who desire to rent living accommodations relief from a situation that is detrimental to their welfare and to the welfare of the city as a whole.
8. A need also exists for legislation to protect the members of the community of Greenwood from potentially substandard and/or dangerous condominium conversion units.
9. The city can, under its police powers, and under that specific authority granted to it by the state of Minnesota, enact legislation that regulates condominium conversion and the health, safety and welfare of its citizens.
10. By the enactment of this ordinance, the city is not, nor does it intend to, protect any specific class of its citizens, but rather intends to benefit and protect the community as a whole and each of the citizens living therein, or people who may venture into the city for whatever lawful purpose.

Section 345.05. Definitions.

See chapter 12 for definitions.

Section 345.10. Application of Ordinance for Conversion of Condominiums.

This ordinance shall apply to conversion condominiums for which the declaration creating a condominium under Minnesota statutes has been recorded after 1995 and to conversion condominiums in which the declarant holds 100% of the interest in all of the units, except for security interests, and has not conveyed or transferred out any of individual units to a bona fide purchaser.

Section 345.15. Notice of Conversion to the City Clerk.

On the date of giving of the first notice of a conversion as provided in section 345.20 hereof, the declarant shall send by U.S. mail to the city clerk written notice of conversion, which states the fact of conversion or the intent to convert.

The declarant in such notices shall provide to the city clerk written evidence or information that will disclose prior filing with the county recorder or registrar of titles of Hennepin county the declarant's title interest in the property which is to be the subject of the proposed conversion.

Section 345.20. Notice to Occupants.

Subd. 1. A declarant of a conversion condominium which has been created or is intended to be created shall give the occupants of the building notice of conversion which states the fact of conversion or the intent to convert at least 120 days, or in the case of a unit with an occupant on the date of delivery of this notice who is 65 years of age or older, under the age of 18, or who is legally handicapped as defined under Minnesota statutes 180 days, before the declarant will require such parties to vacate. The notice shall be delivered once with respect to each unit and shall have attached thereto a copy of this ordinance and a form of purchase agreement setting forth the terms of sale contemplated.

No occupant may be required by the declarant to vacate during said 120- or 180-day period, except by reason of nonpayment of rent, waste, or conduct which disturbs other occupants' peaceful enjoyment of the premises, or violation of any other term or condition of his lease other than the expiration, and the terms of the tenancy may not be altered during that period. Failure of a declarant to give notice as required by this section constitutes a defense to an action for possession. After notice of conversion has been given to any unit, the declarant shall thereafter notify any new tenant who leases any unit in the building from the declarant that the building is or is to become part of a condominium.

The notice referred to in this section shall state that a tenants' association may be formed for the purpose of making an offer to purchase the property that is the subject of the conversion condominium. The provision contained in the preceding sentence does not create a right on the part of such tenants' association to purchase such property or an

obligation on anyone to negotiate with, finance or arrange financing for or sell such property to such tenants' association.

Subd. 2. The notice referred to in this section also shall include the following information:

- (a) A specific statement of the amount of any initial or special condominium fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee;
- (b) Information on the actual expenditures made on all repairs, maintenance, operation or upkeep of the subject building or buildings within the last 3 years, set forth tabularly with the proposed budget of the condominium, and cumulatively broken down on a per unit basis in proportion to the relative voting strengths allocated to the units by the bylaws, if such building or buildings have been occupied;
- (c) A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to that effect;
- (d) A statement of the declarant as to the present condition of all structural components and major utility installations in the condominium, which statement shall include the approximate dates of construction, installation, and major repairs, and the expected useful life of each such item, together with the estimated costs (in current dollars) of replacing each of the same.
- (e) A statement setting forth any orders received from the city within the last 3 years requiring work to be performed on the subject building and dates on which the work so ordered was completed.

Section 345.25. Purchase Rights.

Subd. 1. For 60 days after delivery of the notice of conversion described in section 345.20 hereof, the holder of the lessee's interest created by the declarant or his predecessor shall have an option to purchase the leased unit on the terms set forth in the purchase agreement attached to the notice. If such holder fails to exercise the option during that 60-day period, the declarant may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or term offered to such holder. This subdivision does not apply to any unit in a conversion condominium if that unit will be restricted exclusively to non-residential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

Subd. 2. If a declarant, in violation of this section, conveys a unit to a purchaser for value who has no knowledge of the violation, delivery of the deed conveying the unit extinguishes any right which a lessee not in possession may have under this section to purchase that unit, but does not affect the right of such lessee to recover damages from the declarant for a violation of this section.

Subd. 3. Nothing in this section permits termination of a lease by a declarant in violation of its terms. The rights conferred by this section are subject to any purchase agreement or other contract existing prior to 1995.

Section 345.30. Express Warranties.

Subd. 1. Express warranties made by any declarant to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

- (a) any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;
- (b) any model or description of the physical characteristics of the condominium, including plans and specifications of or for improvements, creates an express warranty that the condominium will conform to the model or description.
- (c) any description of the quantity or extent of the real estate comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerance; and
- (d) a provision that a purchaser may put a unit to a specified use is an express warranty and that the specified use is lawful and conforms as an authorized use under the Greenwood zoning ordinance.

Subd. 2. Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty, are necessary to create an express warranty, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

Subd. 3. Any conveyance of a unit transfers to the purchaser all express warranties made by the declarant.

Section 345.35. Implied Warranties.

Subd. 1. A declarant warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted;

Subd. 2. A declarant impliedly warrants that a unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by them or made by any person in contemplation of the creation of the condominium will be:

- (a) free from defective materials; and
- (b) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.

Subd. 3. In addition, a declarant warrants to a purchaser of a unit which may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

Subd. 4. A declarant warrants to a purchaser of a unit which may be used for residential use that the use contemplated of the premises is consistent with and a conforming use under local land use regulations at the earlier of the time of conveyance or delivery of possession.

Subd. 5. Warranties imposed by this section may be excluded or modified as provided herein.

Subd. 6. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declaration.

Subd. 7. Any conveyance of a unit transfers to the purchaser all of any declarant's implied warranties of quality.

Section 345.40. Exclusion or Modification of Implied Warranties.

Subd. 1. Except as limited by subsection (b), implied warranties:

- (a) may be excluded or modified by agreement of the parties; and
- (b) are excluded by expression of disclaimer, such "as is," "with all faults," or other language which in common understanding calls the buyer's attention to the exclusion of warranties.

Subd. 2. With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties is effective.

Section 345.45. Statutes of Limitations for Warranties.

Subd. 1. A judicial proceeding for breach of any obligation arising hereunder must be commenced within 6 years after the cause of action accrues.

Subd. 2. A cause of action hereunder, regardless of the purchaser's lack of knowledge of the breach, accrues:

1. as to a unit, when the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a non-possessory interest was conveyed; and
2. as to each common element, the latter of (i) the time of common element is completed, and (ii) the time the first unit in the condominium is conveyed to a bona fide purchaser.

Subd. 3. If a warranty hereunder explicitly extends to future performance or duration of any improvements of component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

Section 345.50. Right to Rescind.

A lessee may rescind a purchase agreement of a unit offered for sale hereunder by delivering to the declarant at the address stated in the purchase agreement by registered or certified U.S. mail, postage prepaid, a written notice of rescission within 15 days of execution of such an agreement by the lessee. Upon receipt of such a notice of rescission the declarant shall promptly refund any earnest money received without deduction therefrom or interest thereon whereupon the purchase agreement shall become null and void. The rights under this section are in addition to the rights afforded purchasers under the Minnesota Condominium Act, as amended.

Section 345.55. Delivery of Notice.

Unless otherwise provided herein, all notices required by this ordinance shall be in writing and shall be either personally delivered or delivered by U.S. mail, postage prepaid and addressed to the named tenant or “occupant” at the address of the unit. Delivery shall be complete upon mailing.

Section 345.60. Compliance with Housing, Building and Zoning Code Requirements.

No declaration, sale or transfer of a conversion condominium may occur unless the building be converted:

- (a) Complies with the requirements of building code of the city of Greenwood presently in force.
- (b) Complies with the 1979 Uniform fire code as amended or superseded by other subsequent codes as promulgated by the International Conference of Building Officials;
- (c) Is located upon property which is or shall be zoned under the Greenwood zoning ordinance for multiple, and not single family uses.
- (d) Conversion condominium premises must be inspected by the building official for any repairs or alterations necessary to bring the project to current building and fire code standards, and a certificate of inspection to that effect by the building official prior to the sale or transfer of any conversion condominium unit obtained and filed with the city clerk.
- (e) The assessor shall not certify nor approve any tax parcel division growing out of the condominium declaration without first obtaining a written certificate from the city attorney certifying that the declarant has complied with the terms of this ordinance.

Section 345.65. Violations.

Failure to comply with any one or all of the provisions of this ordinance shall constitute a misdemeanor and is subject to the process outlined in chapter 12 of this code book.