

2011-Or-\_\_\_\_

**AN ORDINANCE  
of the  
CITY OF  
MINNEAPOLIS**

By: \_\_\_\_\_

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**Amending Title 5, Chapter 95 of the Minneapolis Code of Ordinances relating to Building Code: Projections and Encroachments.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 95.12 of the above-entitled ordinance be amended to read as follows:

**95.12. ~~Issuance of building permit~~ Compliance with the building code.** ~~The director of inspections shall not issue a permit for any encroachment requiring a permit from the city engineer without verification by the city engineer that all conditions relating to acceptance of the terms of the permit and filing of the insurance policy have been complied with.~~ All projections and encroachments shall comply with and conform to applicable requirements of the building code. A building permit shall be required to perform any work regulated by the building code and such permit shall be in addition to the encroachment permit or any other required permits. A building permit shall not be issued for work on a projection or encroachment prior to issuance of any required encroachment permit.

Section 2. That Section 95.90 (e) of the above-entitled ordinance be amended to read as follows:

- (e) ~~Safety inspection and certification of areaways~~ Safety inspection and certification of areaways. All areaways shall be inspected when they become ~~thirty-five (35)~~ twenty (20) years of age, and every ~~ten (10)~~ five (5) years thereafter, by an inspecting engineer who shall be a qualified civil or structural engineer, licensed by the State of Minnesota as a professional engineer. Said inspecting engineer shall be selected, hired and paid by the owner of the areaway, to determine whether said areaway is capable of carrying the required loads and is otherwise structurally sound and in compliance with the provisions of this section.

The inspecting engineer shall make an engineering report of findings which shall consist of the following: (i) a statement as to whether or not the areaway is capable of

carrying required loads, is structurally sound and is in compliance with the requirement of subsection (c) for areaways constructed prior to January 1, 1990, or subsection (b) for areaways constructed on or after January 1, 1990; and (ii) a list of the modifications, if any, that must be made in order to make the areaway capable of carrying required loads, structurally sound and in compliance with the appropriate subsection (b) or (c) as stated above; and (iii) a signed signature paragraph, stating the inspection and report was done by or under direct supervision of the inspecting engineer who is a duly licensed professional engineer under the laws of the State of Minnesota. In lieu of extensive modifications, the owner of the areaway may opt to make lesser modifications and more frequent engineering report of findings inspections, all as recommended by the inspection engineer, and included as an option in the engineering report of findings; provided, that such lesser modifications shall, in any event, incorporate sufficient structural and safety features to satisfy the appropriate subsections (b) or (c). In all cases, the full list of modification to meet the requirement (ii) above must be submitted to the director of inspections.

~~The director of inspections shall provide notification of the inspection and certification requirements of this section to the owner of any affected areaway whenever an order is issued requiring compliance with the inspection and certification provisions of this section or designee shall visually inspect all areaways when they become twenty (20) years of age and every ten (10) years thereafter. If, on such visual inspection, the inspector notices deterioration of the areaway, the director may require the owner to have it inspected forthwith and periodically thereafter by an inspecting engineer in the same manner and under the same requirements as set forth above for areaways which are thirty five (35) years of age or more.~~

~~The director of inspections shall, within one hundred twenty (120) days following the publication of this ordinance, mail a notice to the owners of all areaways for which there is an encroachment permit, notifying them of the requirements of subsection (e) and (f). Thereafter, as areaways are required to be inspected pursuant to this subsection, the director of inspections shall mail a notice to the owner of the areaway at least ninety (90) days prior to the date an engineering report of findings inspection is due to be made and thirty (30) days prior to the date of a visual inspection. The owner shall be required to submit to the director of inspections the engineering report of findings from the inspecting engineer on or before the date set forth in the notice. If the engineering report of findings requires modifications to be made, the owner shall also submit with the engineering report of findings, a time schedule for making the modifications. In no event shall the time schedule exceed one (1) year for the completion of all recommended modifications.~~

This subsection (e) shall apply to all areaways in existence prior to the effective date of this ordinance as well as those constructed after the effective date. For areaways in existence at the effective date of this ordinance, the initial implementation for ~~both the visual inspection and~~ engineering report of findings inspection, shall be done in an orderly manner as scheduled by the director of inspections with the general direction that the primary intent of this subsection is to require inspections of the

areaways at the regular intervals, as stated above, and that the dates of the inspections, in relation to the age of the areaways, is secondary and reasonably adjustable. Whenever the age of an areaway is not readily ascertainable, the director ~~of~~ or inspections shall use reasonable and best efforts to estimate the age of the areaway. Said estimated age shall then be used for the purpose of setting inspection schedules, as stated above. The areaway owner may, for whatever reason, have an engineering report of findings inspection done at any time. Once the engineering report of findings is submitted to the director of inspections and the fee is paid, the future inspection schedule shall be adjusted, maintaining the frequencies of visual inspections and engineering report of findings inspections, as described above, without regard to the actual age of the areaway.

Whenever the city engineer or the director of inspections becomes aware of any areaway for which there is no encroachment permit, the city engineer shall send a written notice to the owner of the areaway, setting forth the requirements of this subsection. Also included in the notice shall be the requirements of an encroachment permit for the areaway. Within sixty (60) days after the city engineer has sent the written notice to the owner, the owner shall submit a completed encroachment permit application and an engineering report of findings by the owner's inspecting engineer as required by this subsection, if the areaway is more than twenty (20) ~~thirty-five (35)~~ years of age. ~~If the areaway is between twenty (20) years and thirty-five (35) years of age, the director of inspections, or designee, will conduct a visual inspection of the areaway.~~ The owner shall comply with all provisions of this section relating to the making of necessary modifications to the areaway in the same manner and time schedule as required herein as to owners who have an encroachment permit. The owner shall also comply with all of the encroachment permit requirements of this chapter applicable to areaways. Should the owner fail to comply with these requirements, no encroachment permit shall be issued and the owner of the areaway may be ordered by the city council to remove the areaway pursuant to section 95.20 of this chapter.

The city council may revoke any previously issued encroachment permit for the failure to comply with the provisions of this section, including the failure to cause the required areaway inspections to be made or the failure to make the necessary modifications within the submitted time schedule. Upon revocation of such permit, the owner of the areaway may be ordered by the city council to remove it pursuant to section 95.20.

This subsection (e) shall not apply to any areaway that is appurtenant to a parking ramp for which an operating certificate has been issued and is currently in effect pursuant to Chapter 108 of this Code.