The City of Minnetonka Ordains:

Section 1. Background.

1.01. The City of Minnetonka, Minnesota (the “City”) is authorized under Minnesota Statutes, Sections 428A.11 through 428A.21, as amended (the “Act”), to establish by ordinance a housing improvement area within which housing improvements are made or constructed and the costs of the improvements are paid in whole or in part from fees imposed within the area.

1.02. The City Council of the City (the “Council”) adopted a Housing Improvement Area Policy on November 14, 2011 (the “Policy”).

1.03. The City has determined a need to establish the Cloud 9 Sky Flats Housing Improvement Area (the “Area”) as further defined below, in order to facilitate certain improvements to property known as the “Cloud 9 Sky Flats” all in accordance with the Policy.

1.04. The City has consulted with the Cloud 9 Sky Flats Association, Inc., a Minnesota nonprofit corporation (the “Association”), and with residents in the proposed Area regarding the establishment of the Area and the housing improvements to be constructed and financed under this ordinance.

Section 2. Findings.

2.01. The Council finds that, in accordance with Section 428A.12 of the Act and the Policy, owners of at least sixty percent (60%) of the housing units within the proposed Area have filed a petition with the City Clerk requesting a public hearing regarding establishment of such Area.

2.02. On August 28, 2017, the Council conducted a public hearing, duly noticed in accordance with Section 428A.13, subd. 2 of the Act, regarding adoption of this ordinance, at which all persons, including owners of property within the proposed Area, were given an opportunity to be heard.

2.03. The Council finds that, without establishment of the Area, the Housing Improvements (as defined below) could not be made by the Association for, or by the housing unit owners in, the Cloud 9 Sky Flats.
2.04. The Council further finds that designation of the Area is needed to maintain and preserve the housing units within such Area.

2.05. The Council further finds that by Resolution No. 2017-091 adopted on the date hereof, the City has provided full disclosure of public expenditures, loans, bonds, or other financing arrangements in connection with the Area, and has determined that the Association will contract for the Housing Improvements.

2.06. The City will be the implementing entity for the Area and the improvement fee.

2.07. The Council finds that the Area meets each of the approval criteria contained in the Policy, including the criterion that a majority of the Cloud 9 Sky Flats owners support the project and the Area financing. The Association presented evidence to the Council adequate to demonstrate that these criteria were met, including presentation to the Council of the petitions described in Section 2.01 above.

Section 3. Housing Improvement Area Defined.

3.01. The Area is defined as the area of the City legally described in EXHIBIT A attached hereto.

3.02. The Area contains 163 housing units as of the date of adoption of this ordinance, along with garage units and common areas.

Section 4. Housing Improvements Defined.

4.01. For the purposes of this ordinance and the Area, the term “Housing Improvements” means the following improvements to housing units, garages, and common areas within the Area:

<table>
<thead>
<tr>
<th>Project</th>
<th>Work to be done</th>
<th>Estimated costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Curtain Wall Repairs</td>
<td>Curtain wall repairs; stone panel perimeter seal repairs; operable window replacement; installation of insulation at spandrel glass areas; miscellaneous labor; rigging; mobilization/demobilization</td>
<td>$2,110,000</td>
</tr>
<tr>
<td>HVAC Repairs</td>
<td>Ductwork damper repairs/improvements; system balancing</td>
<td>$100,000</td>
</tr>
<tr>
<td>Elevator Upgrades</td>
<td>Elevator upgrades to all four elevators</td>
<td>$925,000</td>
</tr>
<tr>
<td><strong>TOTAL:</strong></td>
<td></td>
<td><strong>$3,135,000</strong></td>
</tr>
</tbody>
</table>
4.02. Housing Improvements also include the following:

(a) all costs of architectural and engineering services in connection with the activities described in Section 4.01 hereof;

(b) all administration, legal and consultant costs in connection with the Area, including without limitation all costs related to financing or issuance of bonds, if any; and

(c) interest on the internal financing by the City as described in Section 6.01 hereof.

Section 5. Housing Improvement Fee.

5.01. The City may, by resolution adopted in accordance with the hearing and notice procedures required under Section 428A.14 of the Act, impose a fee (the "Housing Improvement Fee") on the housing units within the Area, at a rate, term or amount sufficient to produce revenues required to provide the Housing Improvements, subject to the terms and conditions set forth in this Section.

5.02. The Housing Improvement Fee (except for the portion allocable to City and Hennepin County administrative costs) will be based on the square footage (percentage of undivided ownership) of each unit, which is consistent with Section 428A.14, subdivision 1 of the Act and with the Common Interest Community Number 1364 (Condominium), Cloud 9 Sky Flats. The City finds that it is more fair and reasonable to impose the fee allocable to City and Hennepin County administrative costs on a per-unit basis, as those costs do not vary with unit size.

5.03. The Housing Improvement Fee will be imposed and payable for a period no greater than 20 years after the first installment is due and payable.

5.04. Housing unit owners will be permitted to prepay the Housing Improvement Fee in accordance with the terms specified in the resolution imposing the fee.

5.05. The Housing Improvement Fee will not exceed the amount specified in the notice of public hearing regarding the approval of such fee; provided, however, that the Housing Improvement Fee may be reduced after approval of the resolution setting the Housing Improvement Fee, in the manner specified in the resolution.

5.06. The Housing Improvement Fee shall be collected at the same time and in the same manner as provided for payment and collection of ad valorem taxes, in accordance with Section 428A.15 of the Housing Improvement Act
and Minnesota Statutes, Section 428A.05. As set forth in Section 428A.14, subdivision 2 of the Housing Improvement Act, the Housing Improvement Fee is not included in the calculation of levies or limits on levies imposed under any law or charter.

Section 6. Housing Improvement Area Loan.

6.01. The Association plans to finance the construction of the Housing Improvements with a construction loan from a bank.

6.02. At any time after a contract with the Association for construction of all or part of the Housing Improvements has been entered into and the construction of the Housing Improvements is complete, the Council will refinance the construction loan obtained by the Association for the Housing Improvements with general obligation bonds or internal financing from available City funds in the principal amounts necessary to refinance the construction loan. Any such financing will be treated as a loan, repayable from the Housing Improvement Fee paid by unit owners, all in accordance with the Council resolution imposing the Housing Improvement Fee.

6.02. If the City chooses to refinance the construction loan with internal financing from available City funds, the City may refinance the internal financing at any time by issuing its general obligation bonds secured by Housing Improvement Fees, as authorized pursuant to Section 428A.16 of the Act.

Section 7. Annual Reports.

7.01. On May 1, 2018, and each May 1, thereafter until the Housing Improvement Fees have been paid in full, the loan described in Section 6.01 hereof, and any bonds issued to refinance the loan, are no longer outstanding (or any later date specified in an agreement between the City and the Association), the Association (and any successor in interest) must submit to the City Clerk a copy of the Association's audited financial statements.

7.02. The Association (and any successor in interest) must also submit to the City any other reports or information at the times and as required by any contract entered into between that entity and the City.

Section 8. Notice of Right to File Objections. Within five days after the adoption of this ordinance, the City Clerk is directed to mail to the owner of each housing unit in the Area the following: a summary of this ordinance; notice that owners subject to the proposed Housing Improvement Fee have a right to veto this ordinance if owners of at least forty-five percent (45%) of the housing units within the Area file a written objection with the City Clerk before the effective date of this ordinance; and notice that a copy of this ordinance is on file with the City Clerk for public inspection.
Section 9. Amendment. This ordinance may be amended by the Council upon compliance with the public hearing and notice requirements set forth in Section 428A.13 of the Act.

Section 10. Effective Date. This ordinance is effective forty-five (45) days after adoption, or thirty (30) days after publication, whichever is later, subject to the veto rights of housing unit owners under Section 428A.18 of the Housing Improvement Act.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 28, 2017.

Patty Acomb, Acting Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: February 27, 2017
Date of adoption: August 28, 2017
Motion for adoption: Wiersum
Seconded by: Allendorf
Voted in favor of: Wiersum, Bergstedt, Ellingson, Allendorf, Acomb
Voted against:
Abstained:
Absent: Wagner, Schneider
Ordinance adopted.

Date of publication: September 7, 2017
CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 28, 2017.

______________________________________________
David E. Maeda, City Clerk
EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

That Part of the East 665.0 feet of the South 673.6 feet of the North 690.1 feet of the Southeast ¼ of the Northeast ¼ of Section 36, Township 117 North, Range 22, West of the 5th Principal Meridian which lies westerly of the westerly line of County Highway No. 18 as described in final certificate No. 4757011, except that part taken for existing roads.

Parcel 2:

The North 16.5 feet of the West 542.0 feet of the East 632.0 feet of the Southeast ¼ of the Northeast ¼ of Section 36, Township 117 North, Range 22 West of the 5th Principal Meridian.