

ORDINANCE NO. 91-21

**AN ORDINANCE TO ACCEPT IMPROVEMENTS
FOR THE RESERVE AT MASS ESTATES SUBDIVISION
AND DECLARING AN EMERGENCY**

WHEREAS, the Subdivider has constructed the phase 1 improvements in The Reserve at Mass Estates Subdivision pursuant to Paragraph 1 of the Subdivider's Agreement (See, Ordinance No. 113-20); and

WHEREAS, said improvements have been inspected by the City's Engineer or his designee, who has certified that said improvements have been constructed in accordance with the terms set forth in the Subdivider's Agreement and conform to all City laws and regulations; and

WHEREAS, because of the very unique circumstances associated with this development, the fact that the developer has timely performed its obligations under the Subdivider Agreement, the City Engineer's confirmation that all improvements have been completed in accordance with the CLOMR, the review of the LOMR having been completed and submitted to mapping, and the delay in the issuance of the LOMR being caused by COVID, a global pandemic, the City Council hereby grants an exception from the requirement in Codified Ordinance Section 1464.13(b)(1)(D) that the LOMR be issued by FEMA prior to acceptance of the improvements. This unique exception that is specific to this development and caused by the very unique aforementioned circumstances shall have no precedential value and may not be used as a precedent for any other development in the City; and

WHEREAS, the builder (Gary Naim, Pres. of Petros Homes) has informed City Council (see Minutes of Council Meeting of November 15th, 2021) that if the LOMR is not issued in time for the purchase of any parcel by a homeowner, it will notify the affected buyer that the LOMR has not been issued and will reasonably cooperate with the homeowner in the acquisition of flood insurance for the property to the satisfaction of the homeowner when entering into the purchase agreement with the builder; and

WHEREAS, Council, having considered all of the above, finds that acceptance of the public improvements completed thus far and recording of the final plat to be in the best interest of the health, safety and welfare of the citizens of Avon.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the City of Avon, Lorain County, Ohio, incorporates all the above recited facts and hereby accepts dedication of the improvements constructed by LDC Mass Estates, LLC, to be designated as The Reserve at Mass Estates Subdivision, subject to the Subdivider meeting all conditions set forth in Section 2 below.

Section 2 - The City's acceptance of dedication of improvements herein is contingent upon the Subdivider providing the City with the following: (1) A Three (3) Year Maintenance Bond or similar Financial Guarantee for said improvements in the amount of One Hundred

Twenty Six Thousand Six Hundred Seventy Seven and 00/100 (\$126,677.00) Dollars; (2) a cash deposit in the amount of Two Hundred Twenty Nine Thousand Fifty and 00/100 (\$229,050.00) Dollars as a financial guarantee for the installation of sidewalks within the Subdivision pursuant to the Subdivider's Agreement and City Ordinance; (3) a cash deposit in the amount of Five Thousand Five Hundred and 00/100 (\$5,500.00) Dollars which represents the cost of planting the required trees in the Subdivision; (4) a cash deposit in the amount of One Thousand Eight Hundred Fifty and 00/100 (\$1,850.00) Dollars which represents cost of putting up traffic control devices within the Subdivision; (5) a cash deposit in the sum of Five Thousand and 00/100 (\$5,000.00) Dollars to cover miscellaneous costs incurred by the City relating to this Subdivision; and (6) a payment of Twenty Four Thousand Nine Hundred Twenty Seven and 69/100 (\$24,927.69) Dollars for the Stormwater Drainage Improvement Fund. Upon compliance with all the requirements set forth in 1 through 6 herein, the Finance Director shall release the Performance Bond in whatever form posted by the Subdivider for this project.

Section 3 - Upon recommendation of the Law Director and the City Engineer, the Finance Director shall authorize the release of all or part of deposits for legal and engineering fees set forth in the Subdivider's Agreement.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to accept improvements constructed by LDC Mass Estates, LLC to be designated as The Reserve at Mass Estates Subdivision; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara J. Brooks, Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director