

AN ORDINANCE ADOPTING SECTION 400.18 AND ITS SUBDIVISIONS AND REPEALING SECTION 401.505 AND ITS SUBDIVISIONS OF THE LAKE ELMO MUNICIPAL CODE RELATING TO REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENTS IN SUBDIVISIONS

Section 1. Amendment: Section 400.18 of the 1979 Municipal Code of Lake Elmo is hereby adopted; to wit:

400.18 Required Improvements/Financial Arrangements

Subd. 1. All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales and other public utilities ("improvements") shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the City and shall be designed in compliance with City standards by a registered professional engineer.

Subd. 2. Plans and specifications shall be submitted to the City Engineer for approval prior to construction. All of the improvements shall be completed by the Developer and acceptable to the City Engineer and shall be free and clear of any lien, claim, charge or encumbrance, including any for work, labor or services rendered in connection therewith or material or equipment supplied therefor.

Subd. 3. Developer shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of two (2) years following completion and acceptance. In the event of the discovery of any defect in materials or workmanship within said two-year period, said defect shall be promptly repaired or corrected, and the warranty and guarantee, for the entire project shall be extended for one additional year beyond the original two (2) year period, for a period of three (3) years following said completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer.

Subd. 4. Improvements that are to be installed shall be inspected during the course of construction by the City Engineer, at the developer's expense. Notice shall be given to the City Engineer a minimum of 24 hours prior to the required inspection. Failure to provide City Engineer with required notice shall result in a stop-order issued to the project. If developer proceeds with work within the development without required inspection, City Engineer shall have the discretion to accept or reject all or part of said improvement, by giving appropriate written notice to the developer.

Subd. 5. Acceptance of improvements by the City Engineer may be subject to such reasonable conditions as he may impose at the time of acceptance. Developer, through his engineer, shall provide for competent daily inspection during the construction of all improvements. As-built drawings, which shall include service and value ties, on reproducible mylar shall be delivered to the City Engineer within 60 days of completion of the improvements together with a written certification from a registered engineer that all improvements have been completed, inspected and tested in accordance with City-approved plans and specifications.

Subd. 6. Changes to Construction Plans and Specifications. All changes to the construction plans and specifications must be approved by the City Engineer.

Subd. 7. Developer shall remove all soil, and debris from, and clean all streets within, the lands developed at least every two months (or within one week from the date of any request by City), during the period commencing May 1 and ending October 31, of each year, until such time as such streets and improvements are accepted for ownership and maintenance by the City. In the event there are or will be constructed on the property, two or more streets, and if permanent street signs have not been installed, developer shall install temporary street signs in accordance with recommendations of the Maintenance Department, prior to the issuance of any permit to build upon the property.

Subd. 8. Within 20 days of installation of utilities and street curbs in any portion of the land developed (if said time occurs be-

tween May 1, and October 31 of any year, developer shall sod (secured with a minimum of 100 lbs sod per roll of sod) that part of the property lying between said curb and a line 18 inches measured perpendicular with the curb or in lieu of said sod, place a fiber blanket with seed approved by the City Engineer (secured with stakes at a minimum of 6 feet apart). Either sod or fiber blanket must be placed upon a minimum of 4 inches of topsoil. The topsoil shall be level with the top of the curb at the curb line and rise 1/4" (one quarter inch) for each foot from the curb line. Developer shall maintain the sod, fiber blanket, topsoil, and grade until such time as the streets and improvements in the development are accepted for ownership and maintenance by the City. Developer shall also sod all drainage swales serving each 1.5 acres a minimum distance of 6 feet on each side of the center of the swale.

Subd. 9. Subsequent to approval by the Council and before execution by the City of the final plat or other appropriate forms of City approval, developer shall:

A. Enter into a developer's agreement whereby developer shall undertake performance of the obligations imposed by this Chapter, or by Council condition, and containing such other terms and provisions and in such form as shall be acceptable to the City Attorney, including, but not limited to, provisions for default including fines and penalties.

B. Submit a bond, letter of credit or cash deposit ("security") which guarantees completion of all improvements within the times specified by the City Engineer and in accordance with the terms of Section 418.18 Subdivisions 1 through 9. The amount of the security shall be 125% of the estimated construction cost of said improvements, subject to reduction thereof to an amount equal to 25% of the cost of the improvements after acceptance thereof by the City Engineer, and receipt of asbuilt drawings. The security shall be in such form and contain such other provisions and terms as may be required by the City Engineer and City Attorney. The developer's registered engineer shall make and submit for approval to the City Engineer a written estimate of the costs of the improvements.

Subd. 10. With the approval of the Council, and instead of the obligations imposed by Subdivisions 1 through 9 above, developer may enter into an agreement signed by 100% of all owners of the land to be developed, requesting the City to install some or all of the improvements, request all of the costs be assessed against the property, and waiving the rights to appeal from the levied special assessments. Upon approval by the Council, the City may cause said improvements to be made and special assessments for the costs of said improvements to be levied on the land, except any land that is or shall be dedicated to the public. Such special assessment shall be payable over a term of five (5) years unless otherwise authorized by the Council. Prior to the award of any contract by the City for the construction of

any improvement, developer shall have entered into a contract for rough grading of streets included in the improvement to a finished subgrade elevation, and including such other terms as required by Council. Developer's obligation with respect to the rough grading work shall be secured by a bond, letter of credit or such deposit which shall guarantee completion, and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125% of the cost of such rough grading and shall be in such form and contain such further terms as may be required by the City Engineer and City Attorney.

Subd. 11. No final plat shall be approved by the Council without first receiving a report signed by the City Attorney certifying that the agreements and documents required under this Section meet the requirements of the City. The City Treasurer shall also certify that all fees required to be paid to the City in connection with the plat have been paid.

Subd. 12. The City shall require a developer to submit a Warranty Bond or equivalent in the amount equal to the original cost of the improvements, which shall be in force a minimum of two (2) years following final acceptance of any required improvements and shall guarantee satisfactory performance of said improvements, unless waived by the City Council.

400.19 Fees. The Council shall be resolution, adopted from time to time, establish fees to be paid by the applicant to defray the administrative costs and expenses incurred by the City in processing development applications, applicants for variance or appeals under the provisions of this Section. Fees to be paid by the applicant shall include all administrative, engineering, legal and consulting fees and materials costs reasonably incurred in the review of the proposed subdivision and the processing of such applicants or appeals.

Section 2. Section 401.505 of the 1979 Municipal Code of Lake Elmo is hereby repealed.

/s/ Wyn John
Wyn John, Mayor

Attest:
/s/ Mary Kueffner
Mary Kueffner, City Administrator
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