

CITY OF COMMERCE

SUBDIVISION REGULATIONS

COMMERCE, GEORGIA

ADOPTED: January 2001

Technical Assistance Provided by The Georgia Group, LLC

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**THE LAND SUBDIVISION REGULATIONS
OF THE
CITY OF COMMERCE, GEORGIA**

TITLE

An ordinance of the City of Commerce, Georgia, establishing rules and regulations governing the subdivision of land into streets, blocks and lots, requiring street improvements and the installation of utilities as a condition of plat approval, defining terms, establishing procedures, providing penalties for violation, repealing conflicting ordinances and for other purposes.

ARTICLE 1.

PREAMBLE AND ENACTMENT CLAUSE

Pursuant to the authority conferred by the Georgia General Planning Enabling Act of 1957 (Act No. 358, as amended) and for the purposes, among others, of encouraging the development of economically sound and stable communities; of assuring the provision of required streets, utilities and other facilities and services to new land developments; of assuring the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments; of assuring the provision of needed public open spaces and buildings sites in new land developments through dedication and reservation of land for recreational, educational and other public purposes; and of assuring, in general, the wise development of areas in harmony with the comprehensive plan for the development of the City, the Mayor and City Council of Commerce, Georgia, do hereby ordain and enact into Law the following Articles and Sections.

ARTICLE 2.

SHORT TITLE

This ordinance shall be known and may be cited as the "Land Subdivision Ordinance of the City of Commerce, Georgia".

ARTICLE 3. DEFINITIONS

Section 3.1 General. Words and phrases defined herein shall be interpreted as defined without regard to other meanings in common or ordinary use, unless the context of the word or phrase indicates otherwise. Words and phrases not defined in this Ordinance shall be construed to have the meaning given by common and ordinary use as defined by Webster's New International Dictionary, Latest Edition, and the New Illustrated Book of Definitions by Moskovitz and Lindbloom. Figures associated with defined terms in this Article are provided for illustration only and do not limit or change the meaning of the term as defined in writing.

Section 3.2 Special Definitions.

Access. A way or means of approach to provide physical entrance to a property.

Acre. A measure of land area containing 43,560 square feet.

Alley. A non-exclusive private easement or publicly dedicated service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Applicant. Any person making a request to the City for any approval, permit or authorization under the procedures contained in this Ordinance.

Block. A tract of land bounded by streets or a combination of streets and public land, right-of-way or any other barrier to the community or development.

Building. Any structure, either permanent or temporary, above or below ground, having a roof or other covering, and designed, built or used a shelter or enclosure for persons, animal, or property of any kind including tents used for the purposes of a building.

Building Height. The vertical distance to the highest point of the roof surface of a flat roof, the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof, as measured from the level of the approved street measured at the point closest to the building.

Building Official. That person responsible for enforcing the City of Commerce's adopted building codes, zoning ordinance and subdivision regulations.

Building Site. A parcel or lot or land occupied or intended to be occupied by a building or structure having not less than the minimum area permitted by the code.

Building Setback Line. That line which represents the distance a building or structure must set back from a boundary or a street right-right-way line, or a street centerline according to the right of this Ordinance. In all cases, the building lines of a lot shall be determined to run parallel to and set back the appropriate distance in which the lot is located from street right-of-way lines, street centerlines, or other boundary lines.

City Manager. The Chief Operating Office of the City of Commerce or his designee.

City Clerk. The City Clerk of the City of Commerce, Georgia, or the City's designated representative.

City Council or Mayor and Council. The legally constituted and elected governing body of the City of Commerce, Georgia.

Comprehensive Plan. The long-range plan for guiding development in the City of Commerce, with the overall goal being to accommodate development in a timely, orderly, and efficient arrangement of land use and public facilities and services that meet the needs of present and future residents and businesses.

Conceptual Plan. A generalized map =presenting an image or representation of a proposed development, and showing those plan elements as further required by this ordinance.

Cul-de-sac. A local street with only one outlet and being permanently terminated with this plat by a vehicular turn around.

Development Activity. The construction of public improvements, site improvements, or building, including any alteration of a property in preparation for such construction. Development Activity shall also include the "thinning" or removal of trees from undeveloped land in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Easement. A grant by a property owner of any designated part of a property for the use by another for a specified purpose without transfer of title or right of ownership.

Final Plat. A finished drawing of a subdivision showing completely and accurately all legal and engineering information and certifications necessary for recording.

Frontage. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot.

Frontage Lot or Road Frontage. The width in linear feet of a lot where it abuts the right-of-way of any street from which access may be directly gained.

Greenspace. A privately-owned area on the grounds of a premises outside of any principal building or parking area, which is open to the sky and set aside and intended for the outdoor enjoyment of the owners, occupants or visitors to the property, and which may but is not required to include such improvements as swim/tennis facilities, landscaping, sidewalks, walkway paths, gazebos, bikeways, exercise or play equipment, and benches, and which may further include up to 20% of its area in water bodies.

Health Department. The Jackson County Health Department, or its authorized representative.

Improvement. Refers to such street work and utilities and other facilities to be installed, or agreed to be installed, by the developer, to be used for public or private streets, highways, ways and easements, as are necessary.

Land Disturbance Permit. A permit issued by the City that authorizes Development Activity, and includes, but is not limited to, activity related to clearing and grubbing, grading, site improvements. This does not authorize building construction.

Lot. A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the street right-of-way or private street easement may be included.

Lot Building Area. The portion of a lot located interior to the front, side and rear yard building setback lines; that is, the portion of a lot wherein a building may be located.

Lot, Corner. A lot abutting upon two or more streets at their intersection.

Lot, Double frontage. A lot which has frontage on more than one street, provided, however, that no corner lot shall qualify as a double lot unless a corner lot has frontage on three or more streets.

Lot Width. The distance between side lot lines measured at the front building line.

Lot of Record. A lot which exists as shown or described on a plat or deed recorded in the Office of the Clerk of the Jackson County Superior Court.

Lot Width Corner. The distance measured between the side lot lines at the front minimum setback line and intersecting setback lines.

Lot Width – Cul-de-sac. The distance measured between side lot lines at the point of the property that is twice the front setback requirement from the front property line.

Overstory Tree. Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than 40 feet.

Planning Commission. The appointed Planning Commission of the City of Commerce, Georgia.

Preliminary Plat. A preliminary map indicating the proposed layout of the subdivision or site plan which is submitted to the Planning Commission for consideration and preliminary approval.

Right-of Way. A strip of land occupied or intended to be occupied by a street, sidewalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special purpose use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use in fee simple.

Sidewalk. A paved, surfaced or leveled area, paralleling and usually separated from the street, as a pedestrian walkway.

Specimen Tree. A tree with a diameter of six (6) inches or over measured five (5) feet from the ground level.

Street. A dedicated and accepted public right-of-way for vehicular traffic from which direct access may be gained to abutting properties, an easement or private right-of-way approved by the City Council to serve such purpose.

Principal Arterial – are those streets and highways which serve major activity centers and emphasize traffic service rather than access to abutting land.

Principal arterials include all limited access freeways, expressways or parkways, and carry high proportion of total are travel on a minimum of mileage.

Major Arterial- are those streets which interconnect with the principal arterial system and provide service to trips of moderate length with emphasis on both traffic service and land access and generally do not penetrate identifiable single family residential neighborhoods.

Minor Arterial – intra-community continuity but should not penetrate identifiable neighborhoods.

Collector Streets – distribute trips from arterial streets to their ultimate origin or destination. Collector streets provide a greater level of land access than access than arterial streets, may enter or traverse identifiable neighborhoods, and rarely serve significant volumes of through traffic.

Local Streets – comprise all facilities not classified as arterial or collector. Local streets provide land access with service to through traffic being actively discouraged.

Structure. Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to the following: site built buildings, Industrialized Buildings, Manufacture Homes, billboards, swimming pools, advertising signs, satellite dishes, and fall-out shelters.

Subdivision. The division of a lot, tract or parcel of land into 2 or more lots, tracts, parcels or other divisions of land for sale, development, finance or lease.

Major Subdivision. The division of all land into two or more lots involving a new street, or a change in existing streets, or divisions of land involving the extension of water, sewer, or gas lines and including re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

Minor Subdivision. A subdivision of land fronting a public street where no new street is involved.

Understory Tree. Those trees that grow beneath the overstory, and will generally reach a mature height of under 40 feet.

Variance. Permission granted under circumstances prescribed herein to depart from specific requirements of this Ordinance.

ARTICLE 4

APPLICATION of ORDINANCE

Section 4.1 Application of Ordinance. Any subdivider of land within the City of Commerce shall submit to the City, plats of the subdivision and other required materials which shall conform to these regulations.

Section 4.2 Permitting Requirements. No construction work on required improvements shall be undertaken on a proposed land subdivision until:

1. A Preliminary Plat has been approved by the Planning Commission of the City of Commerce. (See Article 6.)
2. A Surety Bond has been filed with the City Clerk. (not required for minimum subdivision)
3. Complete final Engineering Plans have been submitted to and approved by the City Engineer. (See Article 9.)
4. Appropriate permits have been obtained and fees paid.

Section 4.3 Platting Authority. From and after the passage of this ordinance, the Planning Commission shall be the official platting authority, and no plat of land subdivision in the City of Commerce shall be entitled to be recorded in the office of the Clerk of the Superior Court of Jackson County unless it shall have the approval of the Planning Commission inscribed thereon. The filing or recording of a plat of a subdivision by landowner or subdivider without approval of the Planning Commission as required by the ordinance is declared a misdemeanor.

Section 4.4 Use of Plat. The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition, or other use of a plat of a subdivision that has not been given final approval by the Planning Commission and recorded in the office of the Clerk of Superior Court of Jackson County is prohibited, and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from penalties.

Section 4.5 Plat Approval. After these regulations shall have been put into effect, any subdivision that fails to meet the requirements of this ordinance shall be disapproved by the Planning Commission.

Section 4.6 Public Road Frontage Requirements. No building permit shall be issued and no building shall be erected on any lot in the City unless the street giving access thereto has been accepted as a public street in accordance with this ordinance, or public street prior to the

effective date of this ordinance, or has been accepted as a public street by the Planning Commission.

Section 4.7 Permits Required. Developers are responsible for obtaining the following permits and/or approvals prior to construction of any subdivision within the City of Commerce.

- Soil Erosion and Sedimentation Control Permit from the Soil Conservation Service.
- NPDES Permit from the State Department of Natural Resources
- Water and Sewer Plan approval from the State Department of Natural Resources
- Street, Water, and Sewer plan approval from the City of Commerce
- State Licenses for all water and/or sewer installation contractors.
- Jackson County Health Department approval for any private sewers.

ARTICLE 5. PROCEDURES

Section 5.1 General Procedures. The procedure for the subdivision and development of land shall include the following:

1. Any person seeking development activity approval is required to schedule a Pre-Application Review with the Planning Commission.
2. Application for Preliminary Plat approval.
3. Planning Commission work session review of Preliminary Plat
4. Review and approval of the Preliminary Plat
5. Submission and approval of Final Engineering Plans
6. Application for Improvement Permits
7. Filing of Surety Bond
8. Application for Final Plat approval
9. Review and approval of the Final Plat

Section 5.2 Pre-Application Review. It is strongly suggested that any person seeking development activity approval schedule a Pre-Application Review with the Planning Commission.

The review shall include preliminary documents and graphic exhibit of the proposed development activity application.

The purpose of the review is to expedite applications and reduce application design and development cost.

Section 5.3 Preliminary Development Approval. The Preliminary Plat provides for approval of the layout as a guide to the preparation of the final plat. Whenever any subdivision of land is proposed to be made the subdivider shall first submit to the City the following:

1. The application form furnished by the City Clerk's office, requesting review for preliminary approval.
2. Nine (9) copies of the Preliminary Plat showing the entire ownership drawn to the preliminary subdivision plat specifications of this Ordinance.
3. Payment of all preliminary plat application and review fees.

Section 5.4 Review and Approval of Preliminary Plat

1. The City Clerk shall review all applications for completeness and submit complete applications to the Chief Building Official for review within 10 days of receipt.
2. The Chief Building Official shall review all application for conformance to the regulation of this ordinance and the Zoning Ordinance, and shall submit conforming applications to the Planning Commission within fifteen (15) days of receipt of the application from the City Clerk's Office.
3. The Planning Commission shall consider the application at its next regularly scheduled meeting or a special meeting called for such purpose. The City Clerk shall notify the applicant of the time and place of the meeting by mail five (5) days before the meeting.
4. Thereafter, the Planning Commission shall:
 - a. Approve or disapprove the Preliminary Plat, noting the action on three (3) copies of the Plat. If disapproved the reasons for disapproval shall be so noted. One copy shall be returned to the applicant and one filed with the Planning Commission and the third being filed with the Chief Building Official.
 - b. Approve the Preliminary Plat subject to minor modifications so noted on the Plat, and return one copy to the applicant. Any minor modifications shall be handled through the Chief Building Official prior to resubmittal.
 - c. The Planning Commission may exercise its privilege to table any application presented to them. A tabled item will be re-heard by the Planning Commission at their next regular meeting or a special called meeting for such purpose.

ARTICLE 6

MINOR SUBDIVISION SPECIFICATIONS

Section 6.1 Minor Subdivision. A subdivision of land fronting a public street where no new street is involved.

Section 6.2 Boundary Survey. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearing and distances, made and certified to by licensed surveyor. The corners of such tract shall also be located on the ground and marked by monuments approved by the City and shall be referenced and shown on the Plat.

Section 6.3 On-site sanitation and water supply facilities. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the City of Commerce, and a letter to this effect shall be stated on the plat and signed by the Jackson County Sanitarian. Location of all such facilities shall be clearly marked on the submitted preliminary plat.

Section 6.4 Proposed subdivision name. The name of the proposed subdivision shall be clearly marked on the preliminary plat.

Section 6.5 Covenants and or Deed Restrictions. A copy of such covenants or deed restrictions as intended to cover all or part of the tract shall be submitted with the plat.

Section 6.6 Landscape/Tree Save Plan. A landscape/tree save plan must be submitted with the preliminary plat that is in compliance with Article 12 or this Ordinance.

Section 6.7 Printing Specifications. The plat to be filed with the clerk of Superior Court shall be printed on quality paper consistent with current engineering practices. The size of the sheet shall be a standard 24 x 36 inches. If the complete plat cannot be shown on one sheet of this size, it may be shown on more than one sheet with an index map.

Section 6.8 Approved Preliminary Plat. Approval of the plat by the Planning Commission shall be inscribed as follows:

This plat was given approval by the Commerce Planning Commission on

_____, 2____.

Chairman, City of Commerce
Planning Commission

ARTICLE 7

MAJOR SUBDIVISION SPECIFICATIONS

Section 7.1 Preliminary Plats for subdivisions shall be prepared as follows:

- A. The submittal to the City Clerk's office shall consist of nine (9) copies of black or blue line prints, and nine (9) copies of all other documents required by this Ordinance.
- B. The proposed name of the subdivision and the proposed names of streets shall not duplicated or too closely approximate the name of any street in this or any other subdivision or street in Commerce or Jackson County except where a street is a continuation of an existing street.
- C. The Preliminary Plat shall be clearly and legibly drawn at a scale no greater than 100 feet to the inch.
- D. Sheet size shall be a standard 24 x 36 inches. If the complete plat cannot be shown on one sheet of this size, it may be shown on more than one sheet with an index map.
- E. The Preliminary Plat shall show ground elevations based on the datum plane of the U.S. Geological Survey (or other datum plane) with contour lines at intervals of not more than five (5) feet.

Section 7.2 Information to be provided on the Preliminary Plat

- A. Name, address and telephone number of the owner of record and of the subdivider.
- B. Name of proposed subdivision and its acreage.
- C. Magnetic north arrow, graphic scale, and date.
- D. Vicinity map showing location and acreage of subdivision.
- E. Exact boundary lines of the tract of bearings and distances.
- F. Names and owners of record of adjoining land.
- G. Existing streets, utilities and easements on the tract and on land adjacent to the tract.
- H. Proposed layout including streets and alleys, to be reviewed by a registered engineer, with proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than single-family dwellings.

- I. Block numbers and lot numbers.
- J. Provisions for water supply, sewerage, and drainage to be reviewed by the City.
- K. Minimum building front yard setback lines as required in the City of Commerce Zoning Ordinance.
- L. Cross-section and centerline profile of each street.
- M. Location of streams, lakes and swamps and land subject to flooding as determined from past history of flooding by surveyor of tract or from flood plain maps of the U.S. Geological Surveyor.
- N. Stages of development, if any.
- O. Existing zoning districts classification of the proposed subdivision and of adjoining properties.
- P. Radii of curves at all street intersections.
- Q. Inscription stating "NOT FOR FINAL RECORDING".

Section 7.3 Landscape/Tree Save Plan. A landscape/tree save plan must be submitted with the preliminary plat that is in compliance with Article 12 of this Ordinance.

Section 7.4 Approval from City. A signed certification of approval of the City of Commerce shall be placed on the Preliminary Plat.

Section 7.5 Approval from Health Department. A signed certification of approval of the Jackson County Health Department shall be placed on the Preliminary Plat of all subdivisions not connected to the City sanitary sewer system.

Section 7.6 Certification of Preliminary Approval. A certificate of Approval of the Preliminary Plat by the Planning Commission shall be inscribed on the plat as follows:

This preliminary plat was given approval by the City of Commerce Planning Commission on _____, 2____.

This preliminary approval does not constitute approval of a Final Plat. This certificate of preliminary approval shall expire and be null and void on (one year from preliminary approval):

Date

Secretary Commerce Planning Commission

ARTICLE 8

FINAL PLAT PROCEDURES and SPECIFICATIONS

Section 8.1 Application for Final Plat Approval. After the Preliminary Plat of a proposed land subdivision has been given tentative approval by the Planning Commission, the subdivider may, within one year from tentative approval, submit to the Planning Commission the following:

- a. A letter requesting review and approval of a Final Plat and giving the name and address of the person to whom the notice of the hearing by the Planning Commission on the Final Plat shall be sent.
- b. Nine (9) blue or black line copies of the Final Plat and other related documents as specified in this Ordinance.

Section 8.2 Review of Final Plat. The Planning Commission shall check the Final Plat for conformance with the tentatively approved Preliminary Plat, and with the rules and requirements of these regulations and shall afford a hearing on the Final Plat, notice of the time and place of which shall be sent by the Planning Commission by registered or certified mail, not less than (5) days prior to the date of hearing.

Thereafter, the Planning Commission shall approved, disapproved or table the Final Plat. A notation of the action shall be made on the original tracing and all prints of the Final Plat, including statement of the reasons therefore, if the Final Plat is disapproved. If action is not taken by the Planning Commission within forty-five (45) days of the date of the hearing, the Final Plat shall considered approved and Certificate of Approval shall be issued on demand. Action on the Final Plat may be taken in the form of an approval, a denial, or tabling of the item. However, the applicant for approval may waive this requirement and consent to an extension of time.

Section 8.3 Recording of Final Plat. Upon approval of the Final Plat, it shall be recorded in the office of the Clerk of Superior Court of Jackson County. The applicant shall be responsible for the recording of such Final Plat in the office of the Clerk of Superior Court.

Section 8.4 Final Plat Specifications. The Final Plat shall conform to and meet the specifications of the Preliminary Plat with the following additions:

- a. The Final Plat shall be clearly and legibly drawn in permanent ink on quality paper consistent with current engineering practices or other approved material. Sheet

sizes shall be a standard 24 x 36. If the complete plat cannot be shown on one sheet of this size, it may be shown on one sheet of this size, it may be shown on more than one sheet with an index map.

- b. Bearings and distances to the nearest existing street lines or benchmarks or other permanent monuments (not less than three) shall be accurately described on the plat.
- c. City and County lines accurately tied to the lines of the subdivision by distances and angles when such lines traverse or are reasonably close to the subdivision.
- d. Exact boundary lines of the tract, determined by a field survey.
- e. Name of subdivision, exact locations, widths, and name of all streets and alleys within and immediately adjoining the plat.
- f. Street centerlines showing angles of deflection, angles of intersection, radii, and lengths of tangents.
- g. Lot lines with dimensions to the nearest one-tenth foot and bearing to the nearest minute.
- h. Lots numbered in numerical order and blocks lettered alphabetically.
- i. Locations, dimensions, and purposes of any easements and any areas to be reserved or dedicated for public use.
- j. Accurate location, material, description of monuments and markers.
- k. A statement, either directly on the Plat or in an identified attached document, of any private covenants.

Section 8.5 Certifications and Statements. The following certifications must appear on the Final Plat:

- a. A Registered Surveyor's Certification Stamp and signature be written in black ink.
- b. Owner's Certificate and Dedication:
Owner's acknowledgement:
State of Georgia, County of Jackson

The Owner of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever, all streets, parks, drains, easements, and public grounds thereon shown, which comprises a total of _____ acres, for the purposes therein expressed.

Subdivider _____ Owner _____
Date _____ Date _____

c. Certification of Approval of Water System and Sewer System

I hereby certify that the sewer systems and water systems of this subdivision meet the requirements of the Development Standards of the City of Commerce. Those lots approved for public sewage are:

Lots: _____

Date: _____, 2 _____

City of Commerce

Head of Jackson County Health Department

d. Certification of Approval of Streets and Utilities

I hereby certify that the streets, utilities, and other required improvements in this subdivision meet all the requirements of the Land Subdivision Ordinance and Design Standards of the City of Commerce, Georgia.

Date: _____, 2 _____.

Signature: _____

Building Official, City of Commerce

e. Certification of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Land Subdivision Ordinance of the City of Commerce, Georgia and that it has been approved by the City of Commerce Planning Commission for recording in the Office of the Clerk of Superior Court of Jackson County.

Date: _____, 2 _____

Chairman, City of Commerce Planning Commission

ARTICLE 9

GENERAL DESIGN REQUIREMENTS

Section 9.1 Suitability of Land. Land subject to flooding, improper drainage, or erosion or that is for topographical or other reasons unsuitable for residential use shall not be platted for residential use nor for any other use that will continue or increase the danger to health, safety, or property destruction, unless the hazards can be and are corrected prior to final plat approval. No land shall be platted for use which would be in conflict with the zoning provisions in the City of Commerce Zoning Ordinance.

Section 9.2 Name of Subdivision. The name of the subdivision must have the approval of the Planning Commission. The name shall not duplicate nor closely approximate the name of an existing subdivision within Jackson County or the City of Commerce, Jackson County, Georgia 30529.

Section 9.3 Large-Scale Development. The requirements of these Regulations may be modified in the case of a large-scale community or neighborhood ;unit, such as a housing project or shopping center which is not subdivided into customary lots, blocks and streets, if the development is approved by the Planning Commission and if it is in conformity with the purpose and intent of this Ordinance.

ARTICLE 10

DESIGN STANDARDS

Section 10.1 Continuation of Existing Streets. Existing streets adjacent to the subdivision shall be continued at the same or greater width, but in no case shall be less than the required width.

Section 10.2 Street Names. Street names shall require the prior approval of the Jackson County 911 before being presented to Planning Commission. Streets that are obviously in alignment with streets already existing and named shall give the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets in Commerce or Jackson County.

Section 10.3 Street Jogs. Street jogs with centerline offsets of less than 125 feet shall not be permitted.

Section 10.4 Cul-de-Sacs. Except where topographic or other conditions make a greater length unavoidable, Cul-de-Sac shall not be greater in length than 600 feet. It is recommended that they be not greater than 400 feet in multi-family areas. They shall be provided at the closed end with a turnaround having property line radius of a least 50 feet with an outside pavement radius of a least 40 feet. The developer is encouraged to utilize planting islands in cul-de-sacs not greater than 12 feet in diameter.

Section 10.5 Development Along Major Street, Limited Access Highway or Railroad Right-of-Way. Where a subdivision abuts or contains a major street, a limited access highway, or a railroad right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way either as a marginal access street, or at a distance suitable for an appropriate use of the intervening land, with a non-access reservation. Due regard should be given requirements for approach grades and future grade separations in determining distances.

Section 10.6 Easements. The Planning Commission may require easements having a maximum width of twenty (20) feet and located along the rear lot lines or side lines for utility lines, and ground mains and cables with provisions for access to be made from a public right-of-way.

Section 10.7 Dead-end Streets. Where a temporary street dead-ends at a tract boundary and continuation is planned or advisable, a temporary turn-around shall be provided in the right-of-way and street paving shall continue to the tract boundary.

Section 10.8 Street Intersections. Intersections shall be as nearly at right angle as possible, and no intersection shall be at an angle of less than 80 degrees.

Section 10.9 Street Right-of-Way Widths. The right-of-way widths shall be the distance across a street from property line to property line. Minimum street right-of-way widths shall be as follows:

- a. Principal Arterial, 200 feet
- b. Major Arterial, 100 feet
- c. Minor Arterial, 80 feet
- d. Collector, 60 feet
- e. Local, 50 feet

Section 10.10 Street Pavement Widths. Street pavement widths shall be as follows:

- a. Collector, 22 feet
- b. Local, 20 feet

Section 10.11 Street Grades and Visibility. Maximum grades of all streets shall not be in excess of 15 percent and this should not be for a greater length than 400 feet.

At the intersection of streets the maximum grade permitted is 5 percent for a distance of 100 feet from the nearest line of the intersecting street.

Minimum horizontal visibility. Measured between two points four feet above the pavement center line shall be on:

1. Collector streets 300 feet
2. Local streets 200 feet

Section 10.12 Horizontal Curvature. The minimum radii of centerline curvature shall be as follows:

1. Collector streets, 500 feet
2. Local streets, 200 feet

Section 10.13 Block Lengths and Widths. Block lengths and widths shall be as follows:

- a. Blocks shall be not greater than 1200 feet nor less than 400 feet in length, except in unusual circumstances.

- b. All blocks shall have pedestrian sidewalks of not less than 5 feet wide on one side of the street. Developers are encouraged to have sidewalks on both sides of street.

Section 10.14 Lot Sizes. Residential lots shall meet the lot width and lot area requirements of the Zoning Ordinance. Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended and shall be in conformity with the requirements in the City of Commerce Zoning Ordinance.

Section 10.15 Lot Lines. All lot lines shall be perpendicular or radical to street lines, unless not practical because of topographic or other features.

Section 10.16 Building Lines. Building line (setback) shall conform to the requirements of the Zoning Ordinance.

Section 10.17 Double and Reverse Frontage Lots. Double frontage, and reverse frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

ARTICLE 11

REQUIARED IMPROVEMENTS

Section 11.1 Street Utility Improvements. In every major subdivision the following street improvements and utilities shall be planned for and provided by the subdivider, by installation and payment prior to the approved Final Plat:

- a. All streets shall be named and marked with signs and shall include street grading and street paving.
- b. Sanitary sewer lines shall be provided unless paragraph c. below applies.
- c. If a sanitary sewer line cannot be connected to a trunk line sewer at the time of development of the subdivision, septic tanks, or other approved disposal services shall be installed by and at the expense of the subdivider for interim use in conformity with the requirements of the Jackson County Health Department. These may be installed on individual lots as and when the lot is built upon.
- d. Water mains within the subdivision with connections to each lot.
- e. All utilities shall be installed underground in the street right-of-way.

Section 11.2 Base and Paving shall consist of the following:

- a. Fill Compaction: After grading of the roadway has been completed, the subdivider shall provide two (2) copies of a compaction certificated certified by a registered engineer or certified testing laboratory stating that the road has been compacted to a ninety-five (95%) percent density.
- b. Base and Paving Requirements:
 - (1) One and one-half (1 ½) inch plant mix asphalt Type “E” or “F” shall be applied on a base of six (6) inch crusher run stone or four (4) inch compacted asphalt concrete base compacted to ninety- five (95%) compaction and primed with bituminous prime in accordance with D.O.T. specifications for construction of rad and bridges.
 - (2) A two (2) inch plant mix asphalt type “E” or “F” shall be applied on a base of six (6) inch crusher run stone compacted to a ninety-five (95%) compaction and primed with a bituminous prime in accordance with D.O.T. specifications for construction of road and bridges.
- c. The subdivider shall provide the City Building Official with two (2) copies of a certificate from an engineer certified private testing laboratory of the compaction test on the base before paving is commenced.

- d. Concrete curbs and gutters shall be constructed with three-thousand (3000) pound concrete at twenty-eight (28) day breaking strength. Concrete curb and gutter shall be six (6) inches by six (6) inches by eighteen (18) inches, with expansion joints every fifty (50) feet.

Note: Bituminous prime, tack coat, surface treatment and hot mix asphaltic concrete paving courses shall be in accordance with DOT specifications.

Section 11.3 Storm Drainage Facilities

- a. A registered engineer must certify that the proposed storm drainage improvements, indicated on the subdivision plat are adequate.
- b. If a storm drainage system exists in the City of Commerce, then the proposed subdivision must contain an underground storm drainage system which will be connected to the existing area system. Such system shall be indicated on the plat.
- c. If a storm drainage sewer system does not exist in the City of Commerce, then adequate surface drainage facilities, as certified by an engineer, shall be included in the subdivision and so indicated on the plat.
- d. The developer shall be responsible for the relocation, improvement and/or extension of any public drainage way or structure that may be directed toward the proposed development if so required by the City of Commerce.
- e. Where a proposed subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way along each side of the channel or course for the purpose of widening, deepening, relocating, improving or protecting such drainage easement.

Section 11.4 Dedication of Land for Greenspace

- a. Every developer shall set aside a minimum of 20% of the total subdivision gross acreage as dedicated greenspace. Not over fifty (50) percent of this reserved area may be within a 50 year flood plain or a waterway.
- b. All property proposed for greenspace shall be: (1) shown on the plat, and (2) be approved with respect to location and suitability.
- c. The greenspace required by this ordinance shall be deeded to a Property Owners Association created by the developer, by recorded covenants, declaration and restrictions running with the land, shall preserve and maintain for the use and benefit of the owners and occupants of lots and dwellings within the subdivision. If at any time, upon the determination by the governing authority the greenspace is not maintained and becomes a public nuisance, the governing authority shall serve the owner or persons involved with a notice, either personally or by certified mail,

describing the condition stating the work necessary to remove the condition, and the time within which said work must be completed. If, at the end of the time so specified, the work has not been performed the work shall be performed by the governing authority and the cost thereof shall constitute a lien against the owner's property with a minimum charge of \$1,000 per day or part thereof.

Section 11.5 Sidewalks. Sidewalks shall be provided by the developer as required by this Ordinance and shall meet the design and location standards required in this Ordinance.

All sidewalks shall be located a minimum of 2 feet from the back of curb and shall be a minimum of 5 feet in width and a minimum 3,000 psi. Control joints shall be provided every 10 feet.

Sidewalks which are provided as part of Georgia Department of Transportation (DOT) will be built according to DOT standards.

Section 11.6 Street Lights. Streetlights, as defined and approved, shall be provided by the developers of all new subdivisions.

At the time of and as a requirement of submission of a Final Plat, the developer shall submit a drawing(s) of the subdivision's layout showing locations of street lights. This drawing must be approved by the Building Official prior to obtaining any building permit within the at subdivision. Said layout may be shown on the Final Plat.

Section 11.7 Median Divided Entrance. A median divided entrance shall be provided by the developers of all new subdivision.

Prior to Planning Commission approval, the developer shall submit a detailed landscape plan of the median and the developments proposed signage for visual approval.

Section 11.8 Home Owners Association. Documentation shall be provided by the developer showing that a property owners association will be created by the developer and will be taken over by the homeowners at subdivision build-out. By-laws must be provided at the time of final plat submittal that provide for the financial responsibility of the homeowners to maintain all recreation areas, open space areas and common area.

AN ORDINANCE TO AMEND THE SUBDIVISION REGULATIONS FOR THE CITY OF COMMERCE, GEORGIA TO PROVIDE FOR ROADWAY CURVE PROTECTION AND FOR OTHER PURPOSES.

The Council of the City of Commerce, Georgia hereby ordains that the Subdivision Regulations of the City of Commerce, Georgia are hereby amended as follows:

A new **Section 11.9 Roadway Curve Protection** is hereby adopted to read as follows:

Section 11.9 Roadway Curve Protection

- A. Applicability. This section shall apply to new subdivisions which abut an arterial road with a designated speed limit of greater than 30 miles per hour at the point of a simple circular curve, compound curve, reverse curve, transition curve, or a vertical curve including both sag and crest curves.
- B. Requirements.
1. Guardrails shall be installed if the development is on an arterial road and in an applicable curve.
 2. The zoning administrator may require an additional buffer on the lots in an applicable curve of up to 25 feet in width if the existing right of way of the arterial road is less than 60 feet.
 3. Uniform fencing and/or walls shall be installed along the entire property line abutting the arterial road.

This ordinance shall take effect immediately upon its adoption, the public health, safety and welfare requiring same.

It is so ordained this 17th day of February, 2020.

CITY OF COMMERCE

By: _____

Mayor

Attest: _____

City Clerk

[seal]

ARTICLE 12

TREE PROTECTION

Section 12.1 General. In order to maintain and promote the public health, safety and welfare, the City has established regulations governing the conservation planting and replacement of trees. It is the City's intent to prevent the indiscriminate removal of trees without denying the reasonable use and enjoyment of real property. The importance of trees is recognized for their contribution toward quality of life. It is also the intent of these regulations that all applicable sites within the City maintain or obtain minimum tree density, as defined herein. Consistent with the expressed purpose of these regulations, all persons shall make reasonable efforts to preserve and retain trees located on its premise.

Section 12.2 Exemptions. The following shall be exempt from the provisions of this section:

1. The removal of trees from an owner-occupied, single-family lot not located within a subdivision.
2. The removal of trees from horticultural properties such as farms, nurseries or orchards.
3. The necessary removal of trees by a utility company within dedicated utility easements.
4. The removal of trees on public rights-of-ways conducted by, on behalf of, or any activity pursuant to work to be dedicated to, a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way.
5. The removal of trees from lakes and detention ponds and drainage easements.
6. The removal of any tree which has become or threatens to become a danger to human life or property.

Section 12.3 Land Disturbance Permit for Development Activity. No person shall engage in a Development Activity and no Land Disturbance Permit shall be issued without first obtaining an approved site plan stamped and signed by the Chief Building Official.

No Tree removal shall be approved for any site not under active development. For the purposes of this Ordinance, a site is not under active development unless there exists an approved development plan delineating the improvements to be constructed on the site consistent with the use for which the site is zoned, and there is a reasonable certainty that construction is imminent.

Section 12.4 Tree Save Requirements. No trees with a diameter of six (6) inches or over measured five (5) feet from the ground level shall be taken down, damaged or destroyed without prior written approval of Mayor and Council or their designated representative. Trees fitting this description shall be given the designation of “Specimen Tree” and every effort shall be made by the developer, builder and homeowner to reserve such trees.

Limits of root damage shall be taken into consideration prior to such approval. Where approval is given for trees to be removed two trees shall be planted for each one removed and a site plan must be submitted to show the type and size of replacement trees. All replacement trees must have a diameter of not less than two (2) inches measured twelve inches above ground level. It shall be the intent of this section to retain as many trees as possible for the visual attractiveness, natural preservation and energy conservation benefit gained by doing so.

Section 12.5 Tree Survey Plan and Inventory. The tree survey as required in Section 7.3 shall be in the form of a to-scale map or site plan prepared and sealed by a registered surveyor or registered engineer, noting the location of all trees within the area to be modified from its natural state.

Section 12.6 Shade Trees Planted by Developer. As a requirement of subdivision approval, where the development is not naturally wooded, the applicant shall plant shade trees on the property within the subdivision. Trees are to be planted a minimum of within five (5) feet from the right-of-way of the road or roads within and abutting the subdivision. One (1) tree shall be planted for every forty (40) feet of frontage along each side of the road. New trees shall have a minimum trunk diameter measured twelve (12) inches above the ground level of not less than two (2) inches. Only long-lived shade trees shall be planted.

Section 12.7 Maintenance of Planted Trees. The developer shall be responsible for replacing any tree that dies within three years of the completion of the entire development or, if a phased development within three years of the completion of the phase in which the now dead tree was planted.

Section 12.8 Tree Replanting Standards. Unless otherwise approved by the City Manager, trees selected for replanting must be on the Tree Planting List listed in Section 12.9. Trees selected for planting must be free from injury, pest, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.

It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees shall be of the same or similar species as those removed when practical.

Section 12.9 Recommended Species List of Overstory/Understory Trees

OVERSTORY

Scientific Name – Common Name
Acer babatum – Southern Sugar Maple
Acer floridum – Florida Maple
Acer rubrum – Red Maple
Acer saccharum – Sugar Maple
Betula nigra – River Birch
Carya illinoensis – Pecan
Carya ovata – Shagbark Hickory
Castanea mollissima – Chinese Chestnut
Cunninghamia lanceolata – Common Chinquapin
Fagus grandifolia – American Beech
Fraxinus pennsylvanica – Green Ash
Ginkgo biloba – Ginkgo, graced
Juniperus virginiana – Eastern Red Cedar
Liquidambar styraciflua – Sweetgum
Liriodendron tulipifera – Yellow-poplar
Magnolia grandiflora – Southern Magnolia
Metasequoia glyptostroboides – Dawn Redwood
Nyssa aquatica – Swamp Tupelo
Nyssa sylvatica – Black Gum
Oxydendrum – Sourwood
Rain
Pinus elliotii – Slash Pine
Pinus strobus – White Pine
Pinus taeda – Loblolly Pine
Pinus virginiana – Virginia Pine
Plantanus occidentalis – American Sycamore
Quercus acutissima – Sawtooth Oak
Quercus alba – White Oak
Quercus coccinea – Scarlet Oak
Quercus falcata – Southern Red Oak

UNDERSTORY

Scientific Name – Common Name
Acer buergerianum – Trident Maple
Amerlanche arborea – Serviceberry
Carpinus caroliniana – American Hornbeam
Musclewood
Cercis canadensis – Eastern Redbud
Cercis chinensis – Chinese Redbud
Chionanthus virginicus – Fringe tree, Gracypine
Greybeard
Conium maculatum – Common Monkshood
Crataegus phaenopyrum – Washington Hawthorne
Cupressocypariss leylandii – Leyland Cypress
Cryptomeria japonica – Japanese Cryptomeria
Halesia caroliniana – Silverbell
Ilex x attenuata – Savannah Holly
Ilex decidua – Deciduous Holly
Ilex x Nellie R. Stevens – Nellie Stevens Holly
Ilex opaca – American Holly
Ilex vomitoria – Yaupon Holly
Koeleruteria paniculata – Boougenville Golden
Rain
Koeleruteria paniculata – panicled Golden Rain
Tree
Lagerstroemia speciosa – Crape myrtle
Maclura pomifera – Osage-orange
Magnolia virginiana – Sweetbay Magnolia
Magnolia x soulangeana – Saucer Magnolia
Magnolia stellata – Star Magnolia
Malus species – Flowering Crabapple

Quercus nigra – Water Oak
Quercus phellos – Willow Oak
Quercus palustris – Pin Oak
Quercus prinus – Chestnut Oak
Quercus shumardi – Shumard Oak
Sophora japonica – Japanese Pagodatree
Taxodium disticum- Bald Cypress
Tsuga canadensis- Canadian Hemlock
Ulmus parvifolia – True Chinese Elm
Zelkova serrata – Japanese Zelkova

Myrica cerifera – Waxmyrtle
Ostrya virginica – Ironwood, Carolina Hornbeam
Oxydendrum aboreum – Sourwood
Chinesis Pistachia – Chinese Pistache
Pyrus hybrids- Improved flowering Pear
Sassafras albidum – Sassafras
Vitex agnus-castus – Chastetree
Agraria leucothoe
Agraria populifolia

ARTICLE 13

SURETY FOR COMPLETION OF IMPROVEMENTS

In lieu of the completion of the required improvements in a subdivision, the Subdivider shall deposit surety for the completion of such improvements and present a Final Plat for approval.

Section 13.1 Requirements. To assure the construction and installation of required improvements, the subdivider shall deliver to the City of Commerce a certified check, surety bond or other acceptable security in such aggregate amount as is estimated by the governing authority to be the total cost of the construction and installation of all public improvements which are the responsibility of the subdivider.

Section 13.2 Conditions. Bonds or other surety posted shall run to the City of Commerce, Georgia and provide that the subdivider, his heirs or successors and assigns, and their agents and servants, will comply with all applicable terms, conditions, provisions, and requirements of these regulations and any other applicable requirements; will faithfully perform and complete the work of construction and installing said facilities or improvements in accordance with these regulations and any other applicable requirements; and that the subdivider shall be responsible to the City of Commerce for any unnecessary expense incurred through the failure of the subdivider, his heir, successors and assigns, or their agents or servants, to complete the work of said construction in an acceptable manner a, and from any damages growing out of negligence in performing or failing to perform said construction and installations. Before acceptance, any surety shall be approved by the City of Commerce. If a bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State of Georgia.

Section 13.3 Duration and Release. Bonds and/or other surety posted pursuant to this Ordinance shall be released or returned, as the case may be, at such time as the facilities guaranteed thereby have been installed and accepted. Acceptances shall be in writing accurately identifying the improvements covered. Facilities shall not be accepted unless they conform to the applicable city specifications and requirements.

Section 13.4 Default. If the construction or installation of any improvements or facilities for which a bond or other surety is posted is not completed within said improvements or facilities are designed to serve, or withing two (2) years after or installation is not in accordance with the applicable specifications and requirements, the City of Commerce shall, using the proceeds from such surety deposits, pay for such work. Such work may be done under contract or by city personnel. To the extent that any portion of cash deposit is not required or used, said excess cash shall be repaid to the person making the deposit.

Section 13.5 Certification of Receipt of Surety for Required Improvements.

The following form shall be printed directly on the Final Plat as follows, where a Preliminary Plat is not used:

" I hereby certify that a security bond or certified check in the amount of \$_____

has been received to assure completion of all required improvements in the subdivision plat attached hereto in the event of default by the developer."

Date_____, 20_____

Signature

Mayor, City of Commerce

AN ORDINANCE TO AMEND ARTICLE 13 OF THE SUBDIVISION REGULATIONS OF THE CITY OF COMMERCE, GEORGIA TO PROVIDE FOR SURETY FOR COMPLETION OF IMPROVEMENTS AND FOR OTHER PURPOSES

It is hereby ordained by the City Council of the City of Commerce, Georgia that Article 13 of the Subdivision Regulations is hereby deleted in its entirety and new Article 13 is inserted in lieu thereof to read as follows:

Article 13 Surety for Completion of Improvements

Section 13.1 Subdivision improvement guarantee.

- (a) **Improvements.** All public improvements required for subdivisions shall have been properly installed and completed in accordance with all requirements and standards of this Subdivision Ordinance (other than traffic signs, street name signs, street striping, and signalization) prior to final plat approval. This includes, but is not limited to streets, water facilities, sewer facilities, pump stations, gas facilities, electric facilities, drainage mechanisms, stormwater retention ponds, and telecommunication facilities.
- (b) **Submission.** Prior to issuance of any land disturbance permits, the owner of a subdivision involving public improvements shall submit a subdivision improvement guarantee in a form and amount acceptable to the Planning Director and City attorney which is required for all planned improvements shown on the preliminary plat, that shall remain in effect during the development period. Prior to approval of a final subdivision plat, a subdivision improvement guarantee in a form acceptable to the Planning Director and City attorney is required for all completed improvements shown on the as-built surveys required by this Subdivision Ordinance.
- (c) **Maintenance period and duration of guarantee.** The subdivider shall maintain any public improvements in the subdivision, for a period of two years or until certificates of occupancy have been issued for 75% or more of the principal buildings on the lots shown on the final subdivision plat, whichever occurs later. The two-year maintenance period shall begin upon recordation of the final subdivision plat, the improvement guarantee shall be renewed or extended, until Certificates of Occupancy have been issued on 75% of the principal buildings on the lots shown on the final subdivision plat. The subdivider shall not assigned this responsibility to another entity without permission of the City Attorney and Planning Director. In cases where the maintenance and performance guarantees are to cover a second phase or any other later state of a development project governed by this ordinance, said guarantees shall be required to be extended in amount and application to cover

the original phase of the project in addition to said later phase for the same period of application as set out in this ordinance if the later phase will utilize the same entrance-street as that used by the original phase of the project. Maintenance shall include maintenance of all public improvements including, but not limited to , streets, sidewalks, gas facilities, electric facilities, telecommunications facilities, water and sewer mains, pumps and appurtenances, repair of drainage mechanisms, erosion controls, removal of silt from the retention ponds and other public improvements.

- (d) **Amount of guarantee.** The value of the improvement guarantee shall be equal to but no exceeding 120% of the cost of the installation of the improvements shown on the as-built surveys or final plat. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined or accepted by the Planning Director.
- (e) **Inspection.** Prior to the end of the maintenance period, the subdivider shall request an inspection of the subdivision's public improvements. The Planning Department shall perform the inspection. The subdivider shall be notified of the inspection results in writing at least 30 days after receipt of a request from the subdivider to the city to initiate an inspection.
- (f) **Repairs.** If repairs are needed for the public improvements to meet city specifications during the maintenance period, the subdivider shall be required to make such repairs within 30 days, after written notification by the Planning Director. The subdivider must correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements. When the subdivider completes the necessary maintenance repairs, he or she shall request in writing that the Planning Department inspect the repairs. The Planning Department shall inspect the repairs and notify the developer of the inspection results within 30 days.
- (g) **Remedy.** If the repairs are not completed, the subdivision improvement guarantee shall be called to pay for the repairs. Should the amount of the subdivision improvement guarantee be inadequate to pay for the repairs, the subdivider shall pay the remaining amount. The city may withhold building permits in the subdivision if the remaining amount required by this paragraph is not paid.
- (h) **Release of improvement guarantee.** Upon adoption by the Commerce City Council of a resolution, the improvement guarantee shall be released by the Planning Director.
- (i) **Performance and maintenance mechanisms.** The performance and maintenance guarantees shall be provided by a variety of means including, but not limited to the following:
 - a. Security bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in this state and in

good standing with the Georgia Insurance and Fire Safety Commissioner's Office and listed in Circular 570 (Federal Register Vol. 62, No. 126) among companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies.

- b. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank.
 - c. Escrow account. The applicant shall deposit cash or others instruments readily convertible into cash at face value, either with the city, or in escrow with a bank.
- (j) When all of the following four conditions are met, this subsection (j) shall apply: 1) a final subdivision plat has been approved; 2) the original owner of the subdivision at the time of approval of the subdivision plat no longer owns any lots in said subdivision, has filed for bankruptcy, or is otherwise determined to be insolvent; 3) no improvement guarantee is in place for the subdivision; and 4) more than one person or entity owns undeveloped lots (i.e. lots without a certificate of occupancy) in said subdivision such that posting of a guarantee for the entire subdivision is no feasible. In the event of the fulfillment of the above-state four conditions, the city may, in its discretion, accept from the applicant for a building permit or for a certificate of occupancy for any lot or series of lots, a cash guarantee that would otherwise be required for the entire subdivision, in lieu of the improvement guarantee required to provide for maintenance and performance requirements for the entire subdivision. By way of example, in a 100-lot subdivision for which the normal required improvement guarantee would be \$100,0000.00, an applicant for one lot could provide a cash improvement guarantee in the amount of \$1,000.00; an applicant for two lots could provide a cash improvement guarantee in the amount of \$2000.00. This subsection (j) is intended to apply only in exceptional circumstances where neither the original subdivision owner nor their successor in interest exists or is solvent and multiple builders have purchased lots in the subdivision, and only in order for the city to ensure a funding source for the maintenance and performance costs associated with the subdivision.

Section 13.2 Warranty deed and resolution of acceptance.

Subdivision streets and right of ways and other lands to be dedicated to the public shall be accepted by the city only upon the approval by the Commerce City Council of a general warranty deed conveying fee simple title of such right of ways and lands that are to be owned by the City or by permanent grant of easement where appropriate. The warranty deed or easement shall be accompanied by a certificate of title and a tax transfer form addressed to the Commerce City Council, certifying that the grantor in such deed or easement is vested with

marketable fee simple title of the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed or easement has full authority to do so. The subdivider shall forward executed deeds for the streets, and dedication of other public properties if applicable, to the Planning Director who will schedule the matters for the next available meeting of the Commerce City Council for consideration, and if approved, recording, along with a resolution accepting the public improvements subject to the improvement guarantee.

This ordinance shall take effect immediately upon its adoption, the public health, safety and welfare requiring same.

It is so ordained this _____ day of _____, 2020.

CITY OF COMMERCE

By: __J Clark Hill , III_____
Mayor

Attest: __Sandra Haggard_____
City Clerk

[Seal]

AN ORDINANCE TO AMEND THE SUBDIVISION REGULATIONS OF THE CITY OF COMMERCE, GEORGIA TO PROVIDE FROM SUBDIVISION IMPROVEMENT GUARANTEES, WARRANTY DEEDS AND RESOLUTIONS OF ACCEPTANCE AND FOR OTHER PURPOSES.

It is hereby ordained by the City Council of the City of Commerce, Georgia that the Subdivision Regulations of the City of Commerce, Georgia are hereby amended by adding a new Section 13.6 and a new Section 13.7 to read as follows:

Section 13.6 Subdivision improvement guarantee.

- (a) **Improvements.** All public improvements required for subdivisions shall have been properly installed and completed in accordance with all requirements and standards of this Subdivision Ordinance (other than traffic signs, street name signs, street striping, and signalization) prior to final plat approval.
- (b) **Submission.** Prior to approval of a final subdivision plat, a subdivision improvement guarantee in a form acceptable to the Planning Director and City attorney is required for all completed improvements shown on the as-built surveys required by this Subdivision Ordinance. Prior to final plat approval, the owner of a subdivision involving public improvements shall submit a subdivision improvement guarantee.
- (c) **Maintenance period and duration of guarantee.** The subdivider shall maintain public improvements in the subdivision, for a period of two years or until certificates of occupancy have been issued for 75% or more of the principal buildings on the lots shown on the final subdivision plat, whichever occurs later. The two-year maintenance period shall begin upon recordation of the final subdivision plat. If the two-year term expires before the issuance of certificates of occupancy for 75% or more of the principal buildings on the lots shown on the final subdivision plat, the improvement guarantee shall be renewed or extended, until Certificates of Occupancy have been issued on 75% of the principal buildings on the lots shown on the final subdivision plat. The subdivider shall not assign this responsibility to another entity without permission of the City Attorney and Planning Director.
- (d) **Amount of guarantee.** The value of the improvement guarantee shall be equal to \$15.00 per linear foot of street improvements shown on the as-built surveys or final plat. The cost of construction shall be evidenced by copies of contractor

agreements or actual invoices paid, or as otherwise determined or accepted by the Planning Director.

- (e) **Inspection.** Prior to the end of the maintenance period, the subdivider shall request an inspection of the subdivisions' public improvements. The Planning Department shall perform the inspections. The subdivider shall be notified of the inspection results in writing at least 30 days after receipt of a request from the subdivider to the City to initiate an inspection.
- (f) **Repairs.** If repairs are needed for the public improvements to meet city specifications during the maintenance period, the subdivider shall be required to make such repairs within 30 days, after written notification by the Planning Director. The subdivider must correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements. When the subdivider completes the necessary maintenance repairs, he or she shall request in writing that the Planning Department inspect the repairs. The Planning Department shall inspect the repairs and notify the developer of the inspection results within 30 days.
- (g) **Remedy.** If the repairs are not completed, the subdivision improvement guarantee shall be called to pay for the repairs. Should the amount of the subdivision improvement guarantee be inadequate to pay for the repairs, the subdivider shall pay the remaining amount. The city may withhold building permits if the remaining amount required by this paragraph is not paid.
- (h) **Release of improvement guarantee.** Upon adoption by the Commerce City Council of a resolution, the improvement guarantee shall be released by the Planning Director.

Section 13.7 Warranty deed and resolution of acceptance.

Subdivision streets and right of ways and other lands to be dedicated to the public shall be accepted by the city only upon the approval by the Commerce City Council of a general warranty deed conveying fee simple title of such right of ways and lands. The warranty deed shall be accompanied by a certificated of title and a tax transfer form addressed to the Commerce City Council, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so. The subdivider shall forward executed deeds for the streets, and dedication of other public properties if applicable, to the Planning Director who will schedule the matters for the next available meeting of the

Commerce City Council for consideration, and if approved, recording, along with a resolution accepting the public improvements subject to the improvement guarantee.

This ordinance shall take effect immediately upon its adoption, the public health, safety and welfare are requiring same.

It is so ordained this 17th day June , 2019.

CITY OF COMMERCE

By: _____ J Clake Hill III _____
Mayor

Attest: _____ Sandra Haggard _____

[Seal]_

ARTICLE 14

VARIANCES AND WAIVERS

Section 14.1 Initiation. All requests for relief from the imposition of the regulations and requirements of this Ordinance on a property or development activity shall be taken to the Board of Zoning Appeals, except as otherwise provided in this Section.

Filing of an appeal will constitute a stop work order being placed on the involved property until there is a resolution by the Board of Appeals.

Appeals to the Board of Appeals may be initiated by any person aggrieved or by an officer, department, board or bureau of the City. Such appeals shall be initiated within 15 days of the action or decision appealed from by filing with the City Clerk notice of said appeal specifying the grounds thereof. The City Clerk shall transmit to the Board of Appeals any papers constituting the record of the action or decision from which the appeal was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is made certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts state in the certificate a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of competent jurisdiction.

Section 14.2 Hardship Variances. Relief from the application of the provisions of this Ordinance may be granted by the Board of Appeals upon a finding that compliance with such provisions will result in a hardship to the property or owner that is substantially unwarranted by the protection of the public health, safety or general welfare.

Such relief may be granted only to the extent necessary to alleviate such hardship and not as a convenience to the applicant nor to gain any advantage or interest over similarly developed properties.

Section 14.3 Special Circumstance Variances. Where the Board of Zoning Appeals finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or

is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

Section 14.4 Standards for Approval. A hardship may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding by the Board of Appeals that:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or
- b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
- c. There are conditions that are peculiar to the property, which adversely affect its reasonable use or usability.

Section 14.5 Public Hearing. The City Clerk shall submit the appeal to the Board of Appeals, together with any staff comments. The Board of Appeals shall review and take action upon each appeal after holding a public hearing. In making a decision on the appeal, the Board of Appeals shall follow the standards set forth under this Section. No member of the Board of Appeals shall rule on a matter in which he or she has a pecuniary interest, directly or indirectly.

ARTICLE 15

AMENDMENTS

This Ordinance may be amended from time to time by the Mayor and Council of the City of Commerce but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the City of Commerce Planning Commission for review and recommendations. The City of Commerce Planning Commission shall have thirty (30) days within which to submit its report. If the planning commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposal.

Before enacting an amendment to this Ordinance, the Planning Commission, acting for the City, shall hold a public hearing hereon, at least fifteen (15) days prior to the meeting. The notice of the time and place of the meeting shall be published in a newspaper of general circulation in the City of Commerce.

ARTICLE 16

SEVERABILITY

It is intended that the provisions of this Ordinance shall be severable and should any portion be held invalid, such invalidity shall not affect any other portion of this Ordinance.

ARTICLE 17

CONFLICTING REGULATIONS

Whenever the provision of this Ordinance and those of some other statute, ordinance or resolution apply to the same subject matter, that statute, regulation or resolution requiring the highest or more strict standard shall govern.

ARTICLE 18

REPEAL OF CONFLICTING REGULATIONS

All resolutions or ordinances or parts thereof in conflict herewith are repealed.

ARTICLE 19

ADOPTION AND EFFECTIVE DATE

These regulations shall take effect and be in force from and after their adoption by the Mayor and Council of the City of Commerce.

Adopted by the Mayor and Council of the City of Commerce.

January 8, 2001
Date of Adoption

Charles L. Hardy, Jr. Mayor
City of Commerce

January 8, 2001
Effective Date

Shirley Willis, City Clerk
City of Commerce

This document should be approved as to its legal form and sufficiency by legal counsel of the City of Commerce prior to its adoption.

Attest: John Stell, City Attorney

Attest: Shirley Willis, City Clerk