

**MERCEDES
SUBDIVISION ORDINANCE**

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City of Mercedes Subdivision Ordinance	

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND SITUATED WITHIN THE CORPORATE LIMITS OF THE CITY OF MERCEDES OR WITHIN 5 MILES THEREOF; ESTABLISHING SUBDIVISION DESIGN STANDARDS; PROVIDING IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE SUBDIVIDER AND PRESCRIBING THE SPECIFICATIONS OF SUCH IMPROVEMENTS; REQUIRING AND REGULATING THE PREPARATION AND PRESENTATION OF PLATS TO THE CITY PLANNING COMMISSION AND SETTING FORTH THE PROCEDURES TO BE FOLLOWED BY THE CITY PLANNING COMMISSION IN APPLYING THESE RULES, REGULATIONS AND STANDARDS IN ORDER TO PROCURE THEIR APPROVAL; PROVIDING A SAVING CLAUSE AND SEVERABILITY.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MERCEDES:

ARTICLE I - SCOPE OF ORDINANCE AND DEFINITIONS

SECTION 1: Scope of Ordinance

- (A) Short Title. This ordinance shall be known as the “Subdivision Ordinance” of the City of Mercedes.
- (B) Jurisdiction. No person shall create a subdivision of land within the corporate limits of the City of Mercedes without complying with the provisions of this Ordinance. All plats and subdivisions of any such land shall conform to the rules and regulations herein set forth.
- (C) Interpretation and Purpose. In their interpretation and application, the provisions of this Ordinance shall be deemed to be minimal in nature, and whenever the principles, standards or requirements of any other applicable provision of other ordinances of the City of Mercedes which are higher or more restrictive, the latter shall control. The purpose of this Ordinance is to achieve orderly urban development through land subdivision; to promote and develop the utilization of land to assure the best possible community environment in accordance with the Master Plan of the City of Mercedes to provide for adequate municipal services and safe streets; and to protect and promote the health, safety and general welfare.
- (D) Adoption of Legislative Grant of Power. Article 974A of the Revised Civil Statutes of the State of Texas is hereby adopted, and the provisions of this Ordinance are adopted in the exercise of the

Power granted to municipalities by such statute and pursuant to the provisions of Article 2, Section 20 of the Charter of the City of Mercedes’.

SECTION 2: Definitions

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words used in the plural number include the singular number. The word “shall” is always mandatory, while the word “may” is merely directory.

- (A) Building Line means a line beyond which buildings must be set back from the street line.
- (B) Commission means the City Planning Commission of the City of Mercedes.
- (C) Major Street means a principal traffic artery, which is intended to connect remote parts of the City or areas adjacent thereto, and act as a principal connecting street with state and federal highways, and shall include each street designated as a thoroughfare on the thoroughfare plan, including all existing and proposed major streets shown on the major Street Plan adopted by the City Commission.
- (D) Collector Street means a street collecting traffic from other streets and serving as the most direct route to a thoroughfare, including all existing and proposed major streets shown on the Major Street plan adopted, by the City Planning Commission.
- (E) Local Street means a street ‘which is intended primarily to serve traffic within a neighborhood or limited residential district, and which is not necessarily continuous through several residential districts, including all existing and proposed major streets shown on the major street plan adopted by the City Planning Commission.
- (F) Industrial Street means a street intended primarily to serve traffic within an area of industrial development or proposed industrial development.
- (G) Comprehensive Master Plan means the comprehensive plan of the City as described in Article 1 & 2 of the Charter of the City of Mercedes and includes any unit or part of such plan separately adopted and any amendments to such plan or parts thereof.
- (H) Plat means the map, drawing or chart on which a sub divider’s plan of a subdivision is presented, which he submits for approval and a copy of which he intends to record in final form.
- (I) Street Width means the shortest horizontal distance between the lines which delineate the right-of-way of a street.
- (J) Subdivision means the division of any lot, tract or parcel of land into two or more lots or sites for the purpose, **whether immediate** of future, of sale or of building development. It also includes re-

subdivision of land or lots. Division of Land in parcels of three (3) or more acres each shall not be included in this definition of subdivision, unless any such division of three (3) or more acres includes the planning or development of a new street or access easement.

- (K) Urban Subdivision means a subdivision lying wholly or in part within the corporate limits of the City of Mercedes, Texas, or its extraterritorial jurisdiction (amended by #78-22)
- (L) Suburban Subdivision means and includes all subdivisions situated within 5 miles of the City Limits which are not Urban Subdivisions are herein defined.

ARTICLE II - PROCEDURE

SECTION 3: Standard Procedure

- (A) General. In order to secure the review and approval of a proposed subdivision by the Commission the prospective sub-divider shall, prior to making any street improvements or installation of utilities, submit to the Commission 'a preliminary (plat) plan. On approval of said preliminary (plat) plan the sub-divider may proceed with the preparation of a final plat and such other plans and documents as required by this Ordinance.
- (B) Preliminary Plan - Filing Procedure. All plans submitted for action by the City Planning Commission shall be filed with the Planning Department at least two (2) weeks prior to the date at which formal application for plat consideration is made to such Commission. The preliminary plan shall be accompanied by a filing fee of thirty-five dollars (\$35.00) plus an additional fee of ten dollars (\$10.00) per acre or fraction thereof, for the first five (5) acres, and one dollar (\$1.00) per acre or fraction thereof, for the remaining acreage. A receipt of the filing fee shall serve' as a certificate of filing and a copy shall be given to the party filing the plan. Such plan shall be delivered to the City Engineer, who shall cause the same to be checked and verified, prepare a report to the Commission setting forth his findings, 'and file such report together with the plan with the Commission at its next regular meeting. With the exception of the preliminary conference, no action shall be initiated by the City until the filing fee has been paid. This fee shall not be refunded if the plat is disapproved.

The Commission shall' approve or disapprove any preliminary plan within thirty (30) days from the date it is filed. Approval of the preliminary plan as such shall not constitute final acceptance or approval of the subdivision. When a preliminary plan has been approved by the Commission, the plat as defined in paragraph (d). shall be submitted within six months thereafter; otherwise, approval of the preliminary plan shall terminate unless the time for filing of the plan is extended by the Commission at the request of the sub-divider. **(amended by Ord. 82-35)**

- (C) Preliminary Plan - Specifications. When the subdivision is a portion of a tract later to be subdivided in its entirety, a general development plan of the entire subdivision, showing a schematic layout of the entire tract, shall be submitted with the preliminary plan of any proposed subdivision shall consist of a drawing on tracing paper drawn to a scale of 100 feet to one (1) inch, and shall show the following information:

- (1) The date, scale, and north pint; a key plan showing location of the tract; the title under which the plat is to be recorded, and the names of the owner and engineer or surveyor.
 - (2) The existing boundary lines and acreage of the land to be subdivided, and the property lines and names of owners of adjacent properties.
 - (3) The location of the center line of existing water courses, railroads and other similar drainage and transportation features, and the location and sizes of existing streets, alleys, easements, lots and public areas on or adjoining any part of the land.
 - (4) Topographical information approximately equivalent to five (5) foot contour lines. Such contour lines to be not more than 100 horizontal feet apart, and based on City standard datum, or U S G S datum, which shall be specified on the plat.
 - (5) The location, size and flow line of all existing drainage structures on the land being subdivided and on adjoining tracts.
 - (6) The names, locations widths and dimensions of proposed streets, alleys, easements, parks and other public spaces, sites for all private uses other than single family dwellings, lot lines and building lines.
- (D) Plan - Procedure and Specification. Upon approval of the preliminary plan as herein set forth or if the preliminary plan meets the requirements 'herein set forth for a plat, the Commission may, On request of the sub-divider, consider such preliminary plan as a plat and approve or disapprove the same as such, provided such action is taken within thirty (30) days from the state of its filing. If the preliminary plan is approved only as such, a plat shall be delivered to the City Engineer who shall file it with the Commission at its next regular meeting. Each plat shall be accompanied by certificates 'from the City and County Tax Collectors that all taxes on the land being subdivided have been paid to the current year, and when the plat is also considered as a preliminary plan the required filing fee. The plat shall be drawn in black ink upon permanent tracing material to a scale of 100 feet to one (1) inch and shall show the following information:
- (1) Date, subdivision title, scale, and North point.
 - (2) The names of the adjoining subdivisions or the names of the adjoining property owners, together with the respective plat or deed references.
 - (3) The lines and names of all proposed streets or other ways or easements (including a statement of the purpose for which such easements are dedicated), and other open spaces to be dedicated for public use or granted for use of the inhabitants of the subdivision.
 - (4) Sufficient data to determine readily and reproduce on the lot ground the location, bearing and length of every street-line, / line, boundary line and building line whether curved or straight, and including true North point. This shall include the radius, central angle, and tangent

distance for the property lines of curved streets and curved property lines that are not the boundary of curved streets.

- (5) The location of all permanent monuments and control points.
 - (6) Suitable primary control points to which all dimensions, bearings and similar data shall be referred. Dimensions shall be shown in feet and hundredths of a foot.
 - (7) Restrictive covenants imposed on the land if desired by the sub-divider.
 - (8) A statement signed and acknowledged by the owner dedicating all streets, alleys, easements, parks and other open spaces to public use, or when the sub-divider has made provision for perpetual maintenance thereof, to the inhabitants of the subdivision.
 - (9) The signatures of the Chairman and Secretary of the Commission attesting approval of the plat.
 - (10) A certificate bearing the signature and seal of the engineer or surveyor who made the survey certifying that the requirements hereof have been complied with.
 - (11) If the subdivision is not to be served immediately by a water utility, a restriction prohibiting occupancy of any lot until water satisfactory for human consumption is available from a source on the land, a community source, or a public utility source, in adequate and sufficient supply for family use and operation of a septic tank and system.
 - (12) If the subdivision is not to be served immediately by a sewage collecting system connected to a community septic tank or treatment plant or to a public sewer system, a restriction prohibiting occupancy of any lot until a septic tank with a tank of not less than 500 gallons capacity and with drain field of not less than 150 feet has been installed on such lot and has been inspection and approved by the City/County Health Officer.
- (E) Within Thirty (30) Days from the filing of any plat the City Planning Commission shall disapprove such plat unless:
- (1) The plat complies with the provisions of this Article:
 - (2) The sub-divider has complied with the required standards of design; and
 - (3) In an Urban Subdivision, the sub-divider ,has constructed and installed streets, paving, curbs, gutters, utilities and drainage facilities in his subdivision in accordance with the provisions of Article IV, or has made provision, by making a cash, corporate bond or depositing money in escrow, each in an amount equal to the estimated cost of construction and installing the required improvements, that in the event of the failure of sub-divider to make such improvements the same will be constructed and installed without cost to the City of Merced.

In a Suburban Subdivision the sub-divider has constructed and installed streets, roads, bridges and drainage structure in accordance with the requirements of Hidalgo County, and the County has approved and accepted such streets and roads for maintenance have been made with the County.

When the Commission is satisfied that the technical requirements of any such subdivision plat have been complied with by the sub-divider, the Commission shall enter in order approving the plat subject 'to action of the City Commission with reference to such utility contracts, street construction, drainage and other matters as the City Commission may lawfully review. Upon taking such action, the City Planning Commission shall cause the plat to be forwarded to the City Commission without delay accompanied by a copy of the Commission's action with reference thereto, together with a written statement of any grievance or disagreement which the sub-divider has requested that the City Commission act upon. After the City Commission is satisfied that the sub-divider will comply with all requirements for utilities and street construction and has returned the plat to the City Planning Commission, indicating such action as the City Commission may have taken in regard to the plat, then the Planning Commission shall enter its order giving final approval of such plat.

Any plat not disapproved within thirty (30) days from the date of its filing with the Commission shall be deemed to have been approved and a certificate showing said filing date, and the failure to take action thereon within thirty (30) days from said filing date shall on demand be issued by the Commission, and said certificate shall be sufficient in lieu of a written endorsement or other evidence of approval.

- (F) The final plat may be considered officially approved when all fees and expenses incurred has been paid, and when all requisites of the subdivision have been met. It will then be the owner's responsibility to provide the City an amount necessary to, have the plat recorded. The Planning Director will then be responsible for recording the plat at the County Courthouse. (Amended by Ord. 82-35)
- (G) The City of Mercedes shall assess a 2% construction inspection fee to all subdivisions subject to inspection. The 2% fee shall be based on the total cost of improvements, including water, sewer, streets, drainage and sidewalks. (Amended by Ord. 98-20)

ARTICLE III - STANDARDS OF DESIGN

SECTION 4: Conformity with Comprehensive Master Plan

Subdivisions shall conform to the comprehensive master plan of the City.

SECTION 5: Relationship to Street System

Streets of new subdivisions shall be in line with existing streets in adjoining property, except where in the opinion of the Commission the comprehensive master plan, topography, requirements of traffic circulation or other considerations make it desirable to depart from such alignment.

SECTION 6: Access to Lots

Each lot shall abut on a dedicated public street.

Lots shall not abut a road classified above a collector. The development shall have an internal road circulation with an entrance-exit. (Added by Ord. 98-20)

SECTION 7: Street Right-of-Way Widths

Street Right-of-way widths shall be in conformity with the requirements of the comprehensive Master Plan. In no event, however, shall such widths be less than fifty (50) feet for local streets, sixty (60) feet for collector streets, and eighty (80) feet for major and industrial streets.

Where topographical conditions, drainage channels, proposed limited development on one side of the street or other special conditions warrant a Street of less than fifty (50) feet in width, a lesser width may be approved by the Commission.

SECTION 8: Boundary Streets

When the land proposed to be subdivided is partially or totally bounded on one or more sides by a street, way or major 'street having a width less than that specified in Section 7 hereof, such land shall be laid out so as to provide street widths specified therein.

A half street along adjoining property which has not been subdivided may be shown on the general development plan of an entire subdivision, but not lots abutting upon such half street shall be included in the subdivision as approved.

SECTION 9: Street Names

New streets shall be named so as to provide continuity of names with existing streets and so as to prevent conflict with identical or similar names in other parts of the City.

SECTION 10: Street Monuments and Property Markers

Concrete monuments shall be placed at all corners of boundary lines of a subdivision and in any case not

more than one thousand (1000) feet apart. Such monuments shall be eight (8) inches in diameter, and shall be thirty (30) inches deep except where rock is encountered within fourteen (14) inches of the surface, in which case such monuments shall be countersunk four (4) inches in such rock. The exact intersection point on the monument shall be marked by a copper pin one-fourth (1/4) inch in diameter embedded at least three (3) inches in the monument. The top of the monument shall be placed flush with the natural ground.

Intermediate property corners, curve points and angle points shall be marked by iron stakes, not less than .12 inches in length, driven flush with the ground or countersunk if necessary in order to avoid being disturbed.

SECTION 11: Street Intersections

Acute angles between streets at their intersection shall be avoided. However, when intersecting angles sharper than eighty (80) degrees are deemed necessary by the Commission, the property line in the small angle of the intersection shall be rounded so as to permit the construction of curbs having a radius of not less than twenty-five (25) feet without decreasing the normal width of the sidewalk area.

SECTION 12: Easements

Except where alleys of not less than twenty (20) feet in width are provided, easements for utilities and enclosed or open drainage ways not less than five (5) feet in width shall be retained on each side of rear lot lines. Where deemed necessary by the Commission, such easements not less than seven (7) feet in width, on each side of side lot lines, shall be retained. Easements for any or all of such purposes shall be required across parts of lots other than as described above as deemed necessary by the Commission. All such easements shall be so aligned as to permit construction of utilities therein at the minimum cost. Appropriate alleys or service ways, not less than twenty (20) feet in width, shall be provided to serve commercial and industrial sites. When the City Engineer finds that easements in areas adjoining a proposed subdivision are necessary to provide adequate drainage thereof or to serve such subdivision with utilities, the sub-divider shall obtain such easements or shall make arrangements with the City to obtain them.

SECTION 14: Block Lengths

Block lengths shall be determined primarily by the requirements of adequate vehicular and pedestrian circulation into, out of, and through such new subdivision. Residential blocks shall be approximately twelve hundred (1200) feet long, but this length may be varied according to the requirements of circulation, topography and provisions of the comprehensive master plan.

SECTION 15: Block Widths

Block widths shall be such as to allow for two tiers of lots back to back, except where abutting a major street to which access to the lots is prohibited, or where prevented by topographical conditions or size of the property.

SECTION 16: Lot Arrangements

In General, the side lines of lots shall be approximately at right angles to straight street lines, or radial to curved street lines. An arrangement placing adjacent lots at right angles to each other shall be avoided.

SECTION 17: Lot Sizes

Where all lots of the subdivision are to be served immediately by a sewage collecting system connected to a public sanitary sewer or a central disposal unit, the minimum dimensions for interior residential lots shall be fifty (50) feet for width and one hundred twenty (120) feet for depth, provided that a decrease in depth may be made if the lot width is increased so as to provide for a minimum lot area of six thousand (6,000) square feet. The minimum width of residential corner lots shall be sixty (60) feet and the minimum area of corner lots shall be seventy two hundred (7,200) square feet.

In a subdivision located in the extraterritorial jurisdiction of the City of Mercedes which will not be served by a public sewerage system or a central disposal, the City Planning Commission shall request the County Health' Inspector to cause a percolation test to be made and a copy of such test to, be submitted to the Planning Department. The minimum lot area in the extraterritorial jurisdiction of the City shall be at least twenty thousand (20,000) square feet.

(Amended by Ord. 82-35)

The maximum width to depth (length) of all residential lots shall not exceed 1:3 ratios. Therefore, the depth of the lot shall not exceed three times the width of the lot. (Amended by Ord. 98-20)

ARTICLE IV - MINIMUM IMPROVEMENT REQUIREMENTS

SECTION 18: Compliance with Construction Requirements

- (A) Public Works Improvements. No plat of any subdivision shall receive final approval unless the sub-divider has complied or provided for compliance with the policies and procedures set forth in Exhibit A, "Specifications and Design Standards for Public Works Improvements," which is attached hereto and made a part hereof. Until such policies and procedures have been complied with by the sub-divider and the plat approved by the Commission as herein required, no building, water, sewer, plumbing or electrical permit shall be issued by the City as to any property in the subdivision.
- (B) Performance Bond. Prior to the approval of the subdivision plat the sub-divider must file with the

City Manager a bond executed by a surety company holding a license' to do business in the State of Texas in an amount equal to the cost of improvements guaranteeing to the city that such improvements shall be constructed and completed in a satisfactory manner and within a period specified, but such period shall not exceed two years. Said bond shall be approved by the City Attorney and shall be made payable to and enforceable by the City of Mercedes. Upon substantial compliance and approval of all improvements as viewed by the City Engineer, the bond may be released in writing by the City Manager and may be returned to the developer.

- (C) Where Bond Not Prerequisite to Approval. The filing of a performance bond shall not be a condition precedent to the approval of a plat where the sub-divider, prior to the last regular meeting of the Commission before the expiration of thirty (30) days from the date the plat was filed for approval, has signed and filed with the Commission an instrument in substantially the following form.

I, do hereby agree that, if the proposed plat of _____ (name of Subdivision) filed by me for approval on the _____ day of _____, 19, is approved by the Planning Commission of the City of Mercedes, Texas, the City Manager of said City may retain said plat in his possession, without recording same, until I have either constructed all site improvements required under the provisions of the City of Mercedes Planning Area Subdivision Regulations, other than water, gas and electric lines, or have filed with the City Manager a 'bond in an amount equal to the cost of all such' uncompleted improvements, as estimated by the City Engineer, guaranteeing that all such uncompleted improvements will be constructed within two (2) years from the date of such bond. Said bond shall comply with the requirements of Section 8(B), in so far as such requirements are applicable.

SECTION 18: Sidewalks

Sidewalks shall be installed at the expense of the developer in the manner described below:

- (A) That no sidewalk is required until a lot is improved (upon completion of construction) but at the time such improvements are constructed, a sidewalk complying with the provisions herein shall be provided at the front of such lot, and also along the Street side of corner lots.

(A.) Sidewalks shall be provided by the developer prior to the development of any lot.
(Amended by Ord. 82-35)

- (B) That all sidewalks be not less than four (4) feet in width and not less than four (4) inches thick and reinforce by not less than 6x6x6 reinforcing mesh and of concrete, stone or masonry construction (a greater width may be required in multi-family, commercial, and industrial areas).

- (C) That sidewalks be as nearly parallel to the streets as possible.

- (D) That sidewalks be installed along both sides of residential streets which serve as collectors of traffic from minor streets, as approaches to schools, playgrounds, shopping centers and other focal points of the community, or in areas where densities exceed six (6) families per net acre.
- (E) That sidewalks shall be placed so that the farthest edge from the street will be at the property line providing a place for Street landscaping.
- (F) That in lieu, of construction, cash or its equivalent may be deposited with the City in sum equal to the actual cost of construction, plus any engineering that might be required, as an alternative to the mandatory construction of sidewalks. Such funds will be set aside by the City for the installations, as the need arises.
- (G) Additional sidewalks may be provided as deemed necessary and in the interest of the City, by the Planning Commission in commercial, industrial, public and multi-family areas; and such additional sidewalks as the developer may desire shall be permitted.
- (H) Wherein the area where any subdivision is developed and a density ration of six (6) houses or living units are developed, the developer shall provide sidewalks as defined in this section.

ARTICLE V - GENERAL PROVISIONS

SECTION 19: Serving Subdivisions with Utilities

Unless and until a plat of an urban subdivision has been approved, and the sub-divider has constructed the streets, curbs, gutters, paving, utilities and drainage facilities therein, in the manner provided for in this Ordinance, it shall be unlawful for any official of the City of Mercedes to serve or connect any public utilities owned, controlled, Or distributed by the City of Mercedes to any land, or any part thereof, covered by said plat, Or to the owners or purchasers of said land, or any part thereof.

SECTION 19: Meter Boxes

Meter boxes shall be installed at the expense of the developer in the manner described below:

- (a) No meter box is required until a tap is made into the water line owned by the City of Mercedes, Texas. At such time that the tap is made, a meter box shall be installed by the developer.
- (b) Each water tap must be accompanied by a meter box installation.
- (c) Each meter box must be constructed of cast iron or an equivalent durable material that can be detected by a metal detector.
- (d) In lieu of meter box, cash or its equivalent may be deposited with the City of Mercedes, Texas, in the sum equal to the current cost of a meter box of acceptable construction under the terms of this

ordinance, and all meter boxes furnished by the developer in the manner prescribed by this section (d) shall be installed by the City of Mercedes.

Added by Ordinance #78-35 (second section 19)

SECTION 20: Dedication and Maintenance of Streets

Disapproval of a plat by the Commission shall be deemed a refusal by the City of Mercedes to accept the offered dedications shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the City concerning the maintenance of or improvements of any such dedicated parts until the proper authorities of the City have actually appropriated the same by entry, use or improvement. It shall be unlawful for any officer or employee of the City to enter upon or maintain the streets in an urban subdivision and the City will not accept or maintain 'said streets, unless and until such streets have been surfaced, curbed and guttered, and the required utilities and drainage facilities have been installed, and such improvements have been accepted by the City, with such acceptance evidenced in writing by written certificate of the City Engineer.

SECTION 21: Rules and Regulations of Commission

The City Planning Commission may adopt rules of procedure to govern its actions. After public hearing thereon, the City Planning Commission may adopt rules and regulations governing plats and subdivisions. Such rules shall be consistent with the provisions of this Ordinance and shall become effective upon being filed with the City Secretary.

SECTION 22: Neighborhood Unit

Where it is proposed to develop a mass housing project or similar neighborhood unit, the City Planning Commission may vary the specific requirements of this Ordinance, if there is a building development planned with adequate provisions for light and air, vehicular and pedestrian circulation, and recreational facilities, equal to or better than the detailed requirements of this Ordinance.

SECTION 23: Variance

Where literal enforcement of a provision of this Ordinance will render subdivision of a tract of land impractical, and will result in the confiscation of property, the City Planning Commission shall have authority to grant a variance from such provision.

SECTION 24: Enforcement

In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin

any violation of this Ordinance by injunction issued by a court of competent jurisdiction.

SECTION 25: Appeal from Commission Action

Any sub-divider aggrieved by a finding or action of the City Planning Commission within thirty (30) days from the date of such finding or action, and not thereafter. Nothing in this Section shall prevent a right of review by a court of competent jurisdiction.

SECTION 26: Repeal and Savings Clause

All ordinances inconsistent with' this Ordinance are hereby repealed. Provided, however, that this Ordinance shall be construed to be a continuation of the consistent provisions of such ordinances and all action commenced pursuant thereto and all plats filed, with the Commission prior to the effective date of this Ordinance shall be governed by the above described ordinances except that no such plats shall be finally approved by the Commission until the provisions of Article IV, Section 18 (B) of this Ordinance have been complied with.

SECTION 27: Severability Clause

If any provision of this Ordinance or the Application thereof to any person or circumstances, is held invalid, the remainder of the Ordinance, and the application of such provision to other persons or circumstances shall not be affected thereby.

ARTICLE VI – APPLICABILITY WITHIN EXTRATERRITORIAL JURISDICTION

SECTION 28: Applicability

The applicability of this Ordinance is hereby extended to all of the area within extraterritorial jurisdiction of the City of Mercedes, Texas, however

(A) that any violation of any of the provisions of this Ordinance outside the corporate limits of the City of Mercedes, Texas, but within the extraterritorial jurisdiction of the City of Mercedes, Texas, shall not constitute a misdemeanor under this Ordinance, nor shall any fine provided for in this Ordinance be applicable to a violation within such extraterritorial jurisdiction, and;

“(B) that the City of Mercedes, Texas, shall have the right to institute an action in the appropriate district court to enjoin the violation of any of the provisions of this Ordinance in such extraterritorial jurisdiction, with the district court having the power to grant any and all types of injunctive relief in such cases.”

Whenever there shall be a subdivision of land within the area between the extraterritorial jurisdiction of

the City of Mercedes and a distance of five (5) miles from, the corporate limits of the City of Mercedes; unless such area shall also be located in the extraterritorial jurisdiction of an adjoining city, any person so subdividing such property shall file a subdivision plat with the Planning and Zoning Commission of the City of Mercedes for approval by the City. Such plat shall not be approved unless it conforms to the general plan and requirements as promulgated by the Commissioners Court of Hidalgo County, Texas and in addition thereto, provision shall be made for the supplying of a potable water supply source to each lot within such subdivision. Such potable water supply source shall be approved by the Texas Department of Health for the supplying of potable water to consumers. The Planning and Zoning Commission of the City of Mercedes is hereby authorized to approve any such plats on behalf of the City and shall thereafter submit the same to the County Commissioners Court for its approval.

Upon the violation of any requirement hereof, the City Attorney is specifically authorized to seek injunctive relief preventing the sale of any or all lots within such subdivision and requirements as provided for hereunder.

(Added by Ord. 87-07 – two paragraphs)

SECTION 29: Street Lights and Street Signs

Street lights and street signs shall be installed at the expense of the Developer, in the manner described below:

- (A) Standard street lights shall be installed at a ratio of one light per every 300 linear feet, more or less, at corners, and as required by the City of Mercedes; exact locations and number to be determined by the City.
- (B) All costs incurred, beyond the installation allowance of Central Power and Light Company, shall be reimbursed by the Developer to the City.
- (C) Street signs shall be defined as traffic signs, street name signs, and any other such signs as are required by the City of Mercedes.
- (D) The Developer shall be required to deposit with the City, a lump sum of money sufficient to cover all costs regarding the purchase and installation of street signs of acceptable design and quantity.
- (E) Once such deposit has been received, the City of Mercedes shall be responsible for installation and maintenance of such street signs.

(Section 29 added by Ord. #80-49)

SECTION 30: Storm Drainage

Storm Drainage shall be installed at the expense of the Developer, in the manner described below:

- (A) Easement: Where a subdivision is traversed by a water course, drainage-way, natural channel or stream, or where there is a necessity for such, there shall be provided an easement or right-of-way conforming substantially to the limit of such water course, plus additional widths to accommodate future needs.
- (B) Drainage Facilities: Drainage facilities shall be provided and constructed to the nearest point of the City drainage system at the expense of the sub-divider. The sub-divider will pay 100% of the costs for extending drainage up to 100 feet outside the property line of the subdivision. The City and the sub-divider will each pay (1/2) one—half of the total cost of extending the drainage to tie into the City drainage system with the consent and approval of the City Engineer.
- (C) Subdivision Share: The Sub-divider's share of extending drainage to the City drainage system will be placed in escrow until such time as the City may initiate the extension drainage. Such funds placed in escrow may not be used for any other purpose.

(Section 30 added by Ord. #81-10)

- (D.) Storm drainage shall be installed at the expense of the developer. It shall be designed by the Rational Method or other methods as approved by the Planning Commission and a copy of the design computations shall be submitted along with plans. Run-off Computations - To determine the runoff rates for the various areas, the standard rational method may be used utilizing the formula $Q = CIA$, where A - rate of runoff in cubic feet per second, C = runoff coefficient, I = rainfall intensity for the particular duration in inches per hour and A = the drainage area in acres. The runoff factor C I used in design of storm drainage shall be a minimum of 1.3 cubic feet per acre for a minimum time concentration of ten (10) minutes.

(D Added by Ord. 82-35)

SECTION 31: Resolution Naming Any Unapproved Subdivision

If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with. in full, the legislative body of the City shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of Article IV, Section 18 of Ordinance #40 will apply to the subdivision and the lots therein, the City Secretary shall, when directed by the legislative body of the City, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed Records of the county in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the Deed Records of the county stating that noncompliance no longer applies.

SECTION 32: Preliminary Conference

Prior to the official filing of a preliminary plat, the sub-divider, his planner or representative shall consult with and present a proposed plan of the subdivision to the Planning Director for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land.

SECTION 33: Plat Approval Period

Approval or conditional approval of the final plat by the City Commission shall be effective for only one (1) year. If no improvements are begun and/or all conditions set by the City Commission for final approval are not met within this one (1) year, period from the date of approval or conditional approval by the City Commission, such approval shall terminate and the developer shall reinitiate the plat approval process.

SECTION 34: Townhouse Development Regulations

- (A) Townhouse lots may be created where each townhouse lot is to be served by a public sewerage system subject to the following conditions, in addition to those applicable to all other subdivisions in this Ordinance.
- (B) Service Drives - For townhouse lots that have rear entry garages, each townhouse lot will be provided with, a service drive, private alley, or public alley abutting the rear lot line. Such service drive or alley shall have a minimum R.O.W. width of twenty-five (25) feet, a minimum paved surface width of twenty-two (22) feet, and shall be developed in accordance with City of Mercedes Standards. Service drives, private alleys or public alleys shall not exceed nine hundred (900) feet in length without providing access at the midsection of the alley to a public street. Dead-end service drives serving more than eight hundred (800) units shall, not be permitted. Service drives shall not be dedicated to the City Of Mercedes and maintenance of said service drives shall be the responsibility of the owner or owners within the subdivision, subject to a cooperative maintenance agreement. Alleys must be accepted at the time of plat approval, by the Commission, before they can become public alleys. Otherwise, they shall be treated as service drives or private alleys, and the developer or owner's association shall be responsible for maintenance.
- (C) Sidewalks - In addition to installing streets, curbs, drives, and utilities as a requirement of final plat approval, the sub-divider shall install sidewalks along all public streets where such streets border upon common open space, communal parking areas, and any other areas that will not be under individual ownership. Such sidewalks shall be on public property along the property lines, shall be built according to City of Mercedes Standards, and shall be approved by the City Inspector before their acceptance.
- (D) Deed Restrictions and Maintenance Agreements - The sub-divider shall furnish two copies of any deed restrictions, including those providing disposition and maintenance covenants

on all open space or other common ownership areas. Such restrictions shall be recorded by the City at the time of plat recordation. In addition to the required plat filing fee, an additional Fee shall be provided by the sub-divider to pay the county recording cost of such restrictive covenants.

- (E) Partition of Townhouse Common Areas - All areas that are owned in common among the owners within the development, shall remain undivided and shall not be the object of an action for partition or division so, long as the townhouse subdivision shall exist.
- (F) Property Ownership - Ownership of each dwelling unit and the lot upon which it sits is by an individual, while ownership of common open space and any service drive, communal parking areas, and any other common elements is under cooperative Ownership with the other owners within the development.

Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, as shown on the plat or expressed in the declaration or by-laws, without hindering or encroaching upon the lawful rights of the other co-owners.

- (G) If an owner's association or condominium regime is provided for, a legal opinion by an attorney licensed to practice law in the State of Texas, accurately describing and defining the rights and duties of the owners, the legal status of common areas and facilities, and provisions for taxation and maintenance of such areas shall accompany each subdivision with townhouse lots. Such documents shall be provided to the Planning and Zoning Commission prior to final approval.
- (H) Townhouse lots outside the corporate limits of the City of Mercedes, but within the extraterritorial jurisdiction of the City for subdivision control, must be accompanied by a site plan in connection with such subdivision, showing location and dimensions of all buildings, accessory uses, and other improvements.
- (I) Plat description - Townhouse developments in the extraterritorial jurisdiction shall have the description "Townhouse Subdivision" prominently indicated on the plat and a statement that restricts all lots included in the subdivision to be limited to townhouse uses.

SECTION 35: Curb and Gutter Construction

Curb and gutter shall be installed by the sub-divider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision. In lieu of installing the curb and gutter on the subdivision side of all streets forming part of the boundary of the subdivision, the sub-divider can place such amount necessary for construction of the curb and gutter in escrow to be used by the City strictly for such use.

(Section 31-35 added by Ord. 82-35)

Subdivision Ordinance History:

Original Ordinance #40 adopted 5/23/61

Amended by Ordinance #288 adding Sidewalks section 18 (again), 06/10/74

Amended by Ordinance #78-22 adding Article VI, Section 28 RE: subdivisions in ETJ, 7/6/78

Amended by Ordinance #78-35 adding Section 19 (again) RE: meter boxes, 10/17/78

Amended by Ordinance #80-49 adding Section 29 RE: streets and streetlights, 12/2/80

Amended by Ordinance #81-10 adding Section 30 RE: storm drainage improvements, 3/17/81

Amended by Ordinance #82-35 amending Section 3 regarding preliminary plan and final plat, Section 17 on lot sizes, Section 18 sidewalks, Section 30 drainage and adding Section 31-35 re: naming, prelim. conference, plat approval period, townhouse regs., curb and gutter const., 11/16/82

Amended by Ordinance #87-7 re: adding 5 mile etj, 7/21/87

Amended by Ordinance #98-20 RE: construction inspection fees, max width to length ratios; development of adjacent thoroughfares, 12/8/98