

ORDINANCE NUMBER 96-001

State of Texas
City of New Berlin

AN ORDINANCE ESTABLISHING THE RULES AND
REGULATIONS FOR THE PROPER DEVELOPMENT
OF ANY SUBDIVISION OF PROPERTY IN THE
CITY OF NEW BERLIN, TEXAS AND REPEALING
ORDINANCE NUMBER 90-003

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BERLIN,
TEXAS:

SECTION 1. AUTHORITY

A. This ordinance is adopted under the authority of the Constitution and Laws of the State of Texas, including specifically Chapters 43 and 212 of the Texas Local Government Code, V.T.C.A.

B. The City Council of New Berlin is hereby authorized and directed to promulgate rules, regulations, standards, and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. The City Council shall file the same with the City Clerk at least thirty (30) days before they become effective. The City Council may amend the same from time to time, provided that an amendment must be filed with the City Clerk at least thirty (30) days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City of New Berlin, Texas. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

SECTION 2. PURPOSE

A. The purpose of this Ordinance is to provide for the orderly, safe and healthful development within the City of New Berlin and its extraterritorial jurisdiction. This ordinance will help promote the health, safety, morals and general welfare of the citizens of New Berlin and the extraterritorial jurisdiction.

B. This ordinance shall have the further purpose of repealing and hereby does repeal that certain ordinance # 90-003 heretofore passed by the City Council of New Berlin, Texas on the 17th day of September, 1990.

SECTION 3. DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section:

- A. Alley: A minor public right-of way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.
- B. Building Setback Line: The line within a property defining the minimum horizontal distance between a building and the adjacent street line.
- C. City: The City of New Berlin, Texas. Any office referred to in this Ordinance by title means the person employed or appointed by the City in that position or his duly authorized representative.
- D. Dead-end Street: A street, other than a cul-de-sac, with only one outlet.
- E. Flood: A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.
- F. Floodway: The channel of a watercourse and portions of the adjoining flood plain which are reasonably required to carry and discharge the regulatory flood.
- G. Engineer: A person duly authorized under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.
- H. Lot: An undivided tract or parcel of land having frontage on a public street and that is, or in the future may be offered for sale, conveyance, transfer, or improvement; that is designated as a distinct and separate tract, and that is identified by a tract or lot number in a duly approved subdivision plat that has been properly filed for record.
- I. Pavement Width: The portion of a street available for vehicular traffic.
- J. Person: Any individual, association, firm, corporation, governmental agency, or political subdivision.
- K. Regulatory Flood: A flood that is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The regulatory flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular stream and other streams in the same general region.
- L. Regulatory Flood Protection Elevation: The elevation of the regulatory plus ONE foot of freeboard to provide a safety factor.
- M. Shall; May: The word "shall" is always mandatory. The word "may" is merely directory.

- N. Street: A public right-of-way, however designated, that provides vehicular access to adjacent land.
- 1) An "arterial street" primarily provides vehicular circulation to various sections of the City.
 - 2) A "collector street" primarily provides circulation within neighborhoods, to carry traffic through or adjacent to commercial or industrial areas.
 - 3) A "marginal access street" is a street which is parallel to and adjacent to an arterial street, and primarily provides access to abutting properties and protection from through traffic.
 - 4) A "minor street" is one used primarily for access to abutting residential property.
- O. Subdivider or Developer: The terms "subdivider" and "developer" are synonymous and are used interchangeably and shall include any person, partnership, firm, association, corporation, and/or officer, agent, employee, servant, or trustee who participates in any act toward the subdivision of land or development as defined herein.
- P. Subdivision: The term "subdivision" shall mean the division of land into two (2) or more parts for the purpose of either: (1) transfer of ownership, or (2) any type of building development that includes the placing of another residence dwelling or commercial building on the land. All transfers of ownership, divisions of land, or development of land shall be governed by this ordinance.
- Q. Surveyor: A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by State Statute to practice the profession of surveying.
- R. Utility Easement: An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.
- S. Definitions not expressly set forth are to be construed in accordance with customary usage in municipal planning and engineering practices.

SECTION 4. ENFORCEMENT

- A. In the interpretation and application of the provisions of this chapter, it is the intention of the City Council that the principles, standards, and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions, as defined in Section 2(O), in the City and its extraterritorial jurisdiction which currently extends one-half (1/2) mile from the corporate limits.
- B. All property not subdivided into lots, blocks, and streets within the City, prior to the effective date of this Ordinance, shall hereafter be laid out under the direction of the City Council, and no other subdivision will be recognized by the City. It shall be unlawful for any owner, developer, or agent of any owner or developer, to lay out, subdivide, plat, or develop any land within the City and its extraterritorial jurisdiction without following the regulations contained in this Ordinance.
- C. No permit shall be issued by the City for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full. (See Ordinance #76-008).
- D. No building or repair permit shall be issued by the City for any structure in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- E. The City shall not repair, maintain, install or provide any streets in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- F. On behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to herein with respect to any violation that occurs within the City, within the extraterritorial jurisdiction of the City as such jurisdiction is determined under the Municipal Annexation Act, or within any area subject to all or part of the provisions of this Ordinance.
- G. Plat or subdivisions that have received approval by the City Council within one (1) year prior to the effective date of this Ordinance shall be excepted.

- H. 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, and the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provision of paragraphs A, B, and C of this section will apply to the subdivision and the lots therein, the City Secretary shall, when directed by the City Council, 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 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 record of the County stating that paragraphs A, B, and C no longer apply.
- I. Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider, that is intended to be subsequently subdivided as additional units, the preliminary and final plats shall be accompanied by a layout of the entire area, showing the tentative proposed layout of streets, blocks, drainage, water, sewerage, and other improvement for such areas. The overall layout, if approved by the City Council shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the City Council. Thereafter, plats of subsequent units of such subdivision shall conform to such approved overall layout, unless changed by the City Council. However, except where the subdivider agrees to such change, the City Council may change such approved overall layout only when the City Council finds:
- 1) That adherence to the previously approved overall layout will hinder the orderly subdivision of other land in the area in accordance with the provisions of this ordinance; or
 - 2) That adherence to the previously approved overall layout will be detrimental to the public health, safety or welfare, or will be injurious to other property in the same area.
- J. Any person violating any provision of this Ordinance within the corporate limits or extraterritorial jurisdiction of the City of New Berlin, Texas, shall be guilty of a misdemeanor and, upon conviction, shall be fined any amount not exceeding two hundred dollars (\$200.00). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance.
- K. Should any portion or part of this Ordinance be held invalid or unenforceable for any reason, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

SECTION 5. VARIANCES

The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the City Council finds:

- A. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- C. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- D. That the granting of the variance will not have the effect of preventing orderly subdivision of other land in the area in accordance with the provisions of this Ordinance. Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purposes and intent of the Ordinance so that the public health, safety and welfare may be secure and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

SECTION 6. PRELIMINARY CONFERENCE

Prior to the filing of a preliminary plat, the subdivider shall meet with and present a proposed plan of the subdivision to the City Council for comments and advice on the procedures, specifications, and standards required by the City.

SECTION 7. PRELIMINARY PLAT

- A. Preparation: The subdivider shall cause to be prepared a preliminary plat by a surveyor or engineer in accordance with this Ordinance.
- B. Filing (copies): The subdivider shall file eight (8) blue or black line copies of the plat together with the original, with the City Council at least fifteen (15) days prior to the date at which formal application for the preliminary plat approval is made to the City Council.

- C. Fees: Such plat shall be accompanied by the appropriate fee pursuant to the City's current fee schedule. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.
- D. Application: Formal application for preliminary plat approval shall be made by the subdivider in writing to the City Council at an official meeting. The application shall include a statement from all utility companies servicing the area that service is available to meet the needs of the subdivision as proposed.
- E. Plat requirements: The plat shall not exceed eighteen inches (18") by twenty-four inches (24") and be drawn to a scale of two hundred (200) feet to one inch (1"), and shall show the following:
- 1) The proposed name (if any) of the subdivision.
 - 2) North point, scale, and date of preparation.
 - 3) The names and addresses of the subdivider, record owner, and of the engineer or surveyor.
 - 4) The tract designation, approximate acreage, and other description according to the real estate records of Guadalupe County, and designation of the proposed uses of the land within the subdivision.
 - 5) The boundary line of the tract to be subdivided and any City limits, extraterritorial limits and zoning boundaries, if any traverse or are contiguous with the subdivision.
 - 6) Contours with intervals of five feet (5') or less, referred to sea level datum.
 - 7) The names of adjacent subdivisions or the names of record owners of the adjoining parcels of unsubdivided land.
 - 8) The location, widths, and names of all existing or platted streets, public ways, residential lots, parks, public areas, easements, reservations, permanent structures and other sites within or contiguous with the subdivision.
 - 9) Regulatory flood elevations and boundaries of flood prone area, including floodways, if known.
 - 10) The exact location, dimensions, description and name of all proposed streets, alleys, parks, public areas, reservations, easements, rights-of-way, blocks, lots and other sites within the subdivision.
 - 11) A preliminary plan for location and size of all utility lines. The location of all existing lines shall be known and indicated.

- 12) A preliminary plan for proposed fills, or other structure-elevating techniques, channel modifications, and other methods to overcome flood or erosion-related hazards.
- 13) A preliminary plan of the drainage system with grade, pipe size, and location of outlets.
- 14) A number or letter to identify each lot or site and each block.
- 15) Front building setback lines on all lots or sites; side yard setback lines at street intersections or cross-walk ways.

F. Processing of Preliminary Plat:

- 1) City Council shall check the preliminary plat as to its conformity with the master plan, major street plan, land use plan, zoning districts, and the standards and specifications set forth herein or referred to herein.
- 2) At the official meeting following the filing of the formal application for approval of the preliminary plat, the City Council shall disapprove or conditionally approve such plat with written modifications.
- 3) Conditional approval of a preliminary plat by the City Council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, utilities, other required improvements, and to preparation of the final plat. Conditional approval of a preliminary plat shall not constitute automatic approval of the final plat.
- 4) Conditional approval of a preliminary plat shall be effective for two (2) years unless reviewed by the City Council in the light of new or significant information that would necessitate a revision of the preliminary plat. If the City Council should deem changes in a preliminary plat as necessary, it shall so inform, in writing, the subdivider.
- 5) If no development occurred that would affect the proposed plat after two (2) years from the effective approval of City Council, the Council may, upon the application of the subdivider, extend the approval for six (6) months.

SECTION 8. FINAL PLAT

A. Form and Content:

- 1) The final plat shall conform to the preliminary plat as conditionally approved by the City Council incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the City Council.
- 2) The final plat shall be accompanied by the appropriate fee pursuant to the City's current fee schedule, and a check payable to Guadalupe County Clerk in the amount of the recording fee for filing the final plat.
- 3) Eight copies of the final plat shall be submitted at least fifteen days prior to an official City Council meeting. The plat shall not exceed eighteen inches (18") by twenty-four inches (24") and be drawn to a scale of two hundred (200) feet to one inch (1"). The final plat shall include all information required in the preliminary plat listed in Section 7 above.
- 4) Eight copies of the site improvement data bearing the seal of an engineer should shall be provided with the final plat. The improvement data shall include the location and dimensions and cost estimate of:
 - a. streets, alleys, sidewalks, crosswalk ways and monuments
 - b. sanitary sewer or septic systems
 - c. water lines and fire hydrants
 - d. drainage ditches, storm sewers, detailed construction of drainage channels, and drainage easements (runoff figures and total watershed shall be included)
- 5) The subdivider shall also provide:
 - a. certification that the final plat conforms to all requirements of this Ordinance and all regulations of the City of New Berlin,
 - b. owner's acknowledgment of dedication to public use and streets, alleyways, parks or other public areas,
 - c. certification from both the surveyor or engineer of the accuracy of the final plat,
 - d. a waiver of claim for damages against the City occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision.

B. Processing of Final Plat:

- 1) As soon as practical after the preliminary plat is approved, the subdivider shall submit the final plat for approval. No final plat will be considered unless a preliminary plat has been submitted. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no preliminary plat is necessary. Also, at the subdivider's request, and upon City Council's approval, the final plat may constitute only a portion of the approved preliminary plat, but shall conform to all requirements of this Ordinance.
- (2) At the official meeting following the filing of the final plat for approval, the City Council shall vote to approve or disapprove such plat. If the plat is disapproved, the City Council shall inform the subdivider in writing with the reasons at the time such action is taken.
- (3) After the final plat has been finally approved and the subdivider has constructed all the required improvements and such improvements have been approved, and a maintenance bond filed as hereinafter provided; or after the plat has been finally approved and the subdivider has filed the security and maintenance bond hereinafter provided, the City Council shall have the final plat recorded with the Guadalupe County Clerk. The City Council shall also cause the check or checks for the recordation fee or fees deposited at the time the final plat was approved to be delivered with the final plat to the County Clerk. No plat shall be filed for record without written consent of the subdivider. If the subdivider fails to give such written consent within thirty (30) days of the date of the final approval of the plat, the City Council may at anytime thereafter cancel such approval.

SECTION 9. MAINTENANCE BOND

Upon completion of all improvements in accordance with City specifications and standards, and their acceptance by the City, the developer or his contractor shall furnish the City with a maintenance bond, executed by a surety company holding a license to do business in the State of Texas, and acceptable to City Council, in the amount of sixty-six percent (66%) of the cost of all improvements required by this Ordinance. The bond will assure that the subdivider or developer will maintain such improvements in good condition for a period of two (2) years and one (1) month after the final tract is sold. Such bond is to be approved as to form and legality by the City Attorney.

SECTION 10. STANDARDS AND SPECIFICATIONS

No preliminary or final plat shall be approved by the City Council, and no completed improvements shall be accepted by the City Council unless they conform to the following standards and specifications:

A. General:

- 1) Conformity with Comprehensive Plan. The subdivision shall conform to the comprehensive plan of the City of New Berlin and the parts thereof.
- 2) Provision for Future Subdivision. If a tract is subdivided into parcels, such parcels shall be arranged to allow the opening of future streets.
- 3) Reserve Strips Prohibited. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.
- 4) The Subdivision layouts shall make reasonable provisions for development of adjacent land.
- 5) The proposed subdivision plat shall contain restrictions requiring that buildings erected for residential purposes contain not less than 1250 square feet of living area.
- 6) The proposed subdivision plat shall contain restrictions such that no mobile or manufactured home used for residential purposes, shall be placed upon the subdivision lot if that mobile or manufactured home contains less than 1120 square feet of living space.
 - (a) Tie-down procedures must conform to State standards for mobile or manufactured homes.
 - (b) Skirting is required on all mobile or manufactured homes and must be in place within ninety (90) days of placement of such home.

B. Streets:

- 1) Street Layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the City and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.
- 2) Relation to Adjoining Street System. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

- 3) Projection of Streets. Where adjoining areas are not subdivided the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.
- 4) Street Jogs. Wherever possible, street jogs with center line offsets of less than one hundred fifty (150) feet shall be avoided.
- 5) Half-streets or Adjacent Streets. In the cases of collector, minor, or marginal access streets, no new half-streets shall be platted.
- 6) Street Intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
- 7) Dead-end Streets. Dead-end streets shall be prohibited except as short stubs to permit future expansion.
- 8) Cul-de-sacs. In general, cul-de-sacs shall not be permitted.
- 9) Streets on Comprehensive Plan. Where a subdivision embraces a street as shown on the comprehensive plan of the City, such street shall be platted in the location and of the width indicated by the comprehensive plan.
- 10) Minor Streets. Minor streets shall be laid out so as to discourage their use by through traffic.
- 11) Pavement Widths and Rights-of-Way. Pavement widths and rights-of-way shall be as follows:
 - (a) Arterial streets shall have a right-of-way width of at least eighty (80) feet, with a pavement width of at least forty (40) feet.
 - (b) Collector streets shall have a right-of-way width of at least sixty (60) feet and a pavement width of at least thirty (40) feet.
 - (c) Minor streets shall have a right-of-way of at least fifty (50) feet and a pavement width of at least thirty (30) feet.
 - (d) Nonresidential marginal access streets shall have a right-of-way width of at least twenty (20) feet.
 - (e) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to Paragraph B (11)(a)-(d) of this Section, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to such paragraph and there shall be paved so much of such right-of-way as to make the full pavement width comply with such Paragraph.
- 12) Street Names. Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

- 13) Street Signs. Street signs shall be installed by the subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the City and shall be installed in accordance with standards of the City.

C. Utility Easements.

- 1) Each block shall have a utility easement at the front of all lots reserved for the use of all public utility lines, conduits, and equipment. These utility easements shall be twenty (20) feet in width, continuous for the entire length of the block, and shall parallel as closely as possible the street line frontage of the block. Such easement shall be considered a part of the lot area for purposes of minimum lot-size requirements of this Ordinance.
- 2) Where utility easements are not themselves straight within each block, or if the same do not connect on a straight course with the utility easements of adjoining blocks, then an additional easement shall be provided for the placing of guy wires parallel with, but not less than 6 feet nor more than 18 feet from the lot division lines in order to support poles set on curving or deviating rights-of-way.
- 3) Easements at least ten feet (10') wide on each side of the rear lot lines or side lines, shall be provided wherever necessary for utilities.

D. Water Installation.

- 1) Water Supply and Distribution. All subdivisions shall be provided with water supply and water distribution systems approved by the City Council.
- 2) Fire Hydrants. Standard fire hydrants shall be installed as part of the water distribution system per specifications of the City Council.

- E. Sewage System. All sewage systems shall comply to the New Berlin City Ordinance Number 76-008, concerning septic systems.

- F. Utility Lines. All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be installed to a point at least three (3) feet beyond the edge of the pavement.

G. Drainage.

- 1) Easement. Where a subdivision is traversed by a water course, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such water course, plus additional width to accommodate future needs.
- 2) Storm Sewer System. An adequate storm sewer system consisting of inlets, pipes, and other underground and aboveground drainage structures with approved outlets shall be constructed where the run off of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. The subdivider shall submit data and plans for drainage facilities as directed by the City and under policies for storm drainage installation for the City.
- 3) Storm Drains. Underground storm drains shall be designed to accommodate a five (5) year frequency storm with adequate overload relief for a twenty-five (25) year storm. Design of all bridges, culverts, and open channels are to be based on a twenty-five (25) year frequency.

H. Lots.

- 1) Residential Lot Sizes. Residential lots shall have an area of at least five (5) acres and shall be at least two hundred (200) feet wide. If, however, as a result of percolation tests described in Paragraph E of this Section, the City Council deems the minimum lot area insufficient, the City Council shall require additional area sufficient to accommodate the sanitary facilities deemed necessary by City Council.
- 2) Commercial Lots. Commercial lot sizes shall be determined on an individual basis as presented to City Council.
- 3) Frontage. Each residential lot shall front upon a public street, lots of irregular shape shall not be allowed unless they have a street frontage of at least two hundred (200) feet.
- 4) Side Lot Lines. Residential side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines.
- 5) Minimum Setback Lines. Minimum front building setback lines shall be required of at least seventy-five (75) feet. Where a corner lot is a key lot (where lots face the frontage street and other lots face the side street), the corner lot shall have at least the minimum building setback line on both streets. Where a corner lot is not a key lot, it shall have a minimum building setback line on the side street of at least fifty (50) feet.

- 6) Side Yards. Minimum side yards on each side of buildings on interior lots and on the building side of corner lots shall be at least fifty (50) feet.
- 7) Extra Depth and Width in Certain Cases. Where a lot in a residential area backs up to or is adjacent to a railroad right-of-way, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided at the rear of such lot, additional depth shall be required by City Council. In no case shall a depth of less than two hundred (200) feet be required.
- 8) Development Prohibited. No property shall be developed for residential, commercial, or public use within seven hundred fifty (750) feet either side of the center line of the right-of-way of high pressure gasoline, oil or gas line.

SECTION 11. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COSTS

The City of New Berlin is not responsible for installation of utilities or streets.

SECTION 12. FLOOD HAZARD AREAS

A. General.

- 1) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by:
 - (a) The cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and
 - (b) The occupancy of flood hazard areas by uses vulnerable to floods, or hazardous to other lands, which are inadequately elevated or otherwise protected from flood damages.
- 2) Lots platted for residential use shall not be platted within the area defined by the one-hundred (100) year flood plain unless restricted in the private restrictions to be recorded with the plat so as to prohibit the use of any structure for residential purposes unless all such structures are constructed so that the finished grade of the lower floor thereof is not less than one (1) foot in elevation above the elevation of the one-hundred (100) year flood plain established by the U.S. Corps of Engineers. The platting of any land within the one-hundred (100) year flood plain shall be in compliance with applicable provisions of the National Flood Insurance Act of 1968, as

- 3) Lots platted for recreational, commercial, or industrial purposes in tracts of two (2) acres or more may be platted in the one hundred (100) year flood plain if the County Surveyor finds that such subdivision would not increase the flood potential of this area or adjacent areas and such platting is in compliance with applicable provisions of the National Flood Insurance Act of 1968, as amended.
- 4) Notwithstanding the above, platting may be allowed within the defined flood plain if drainage facilities are provided which are adequate to ensure that inundation will not occur, and such facilities are in compliance with design criteria set forth in Section 10, Article H of this Ordinance and applicable provisions of the National Flood Insurance Act of 1968, as amended.

B. Purpose. It is the purpose of this section to promote the public health, safety, and welfare, and to minimize the losses described in Section 12 A(1) by provisions designed to:

- 1) Restrict or prohibit subdivision of lands for uses which are dangerous to health, safety or property in times of flood or which, with reasonable anticipated improvements, will cause excessive increases in flood heights or velocities.
- 2) Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damages at the time of initial construction.
- 3) Protect individuals from buying land which is unsuited for intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that flood hazard areas be delineated on the final plat, and reserving through deed restrictions areas not suitable for development.

SECTION 13. LIABILITY OF CITY UNDER CHAPTER

Neither the city nor any authorized agent acting under the terms of this chapter shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this chapter.

This Ordinance shall be effective from and after its passage or from and after the 18th day of NOVEMBER, 1996.

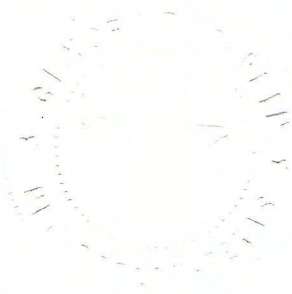
PASSED AND APPROVED this 18th day of NOVEMBER, 1996, with an effective date of NOVEMBER 18, 1996.

Freddie Friedrich

MAYOR

ATTEST:

Jane Waller
CITY SECRETARY



FEE SCHEDULE

IN CONJUNCTION WITH ORDINANCE 96-001, THE FOLLOWING FEE SCHEDULE IS APPROVED:

PRELIMINARY PLAT FILING FEE: (see Ordinance 96-001 § 7(c))

\$75.00 plus \$10.00 per dwelling lot (residential) or
plus \$10.00 per acre (commercial or industrial)

FINAL PLAT FILING FEE: (see Ordinance 96-001 § 8(A)(2))

\$75.00

* * *

This Fee Schedule shall be effective from and after its passage or from and after the 18th day of NOVEMBER, 1996.

PASSED AND APPROVED this 18th day of NOVEMBER, 1996, with an effective date of NOVEMBER 18, 1996.

Freddie Friedrich

MAYOR

ATTEST:

Jane Wallace
CITY SECRETARY

