

ORDINANCE NUMBER 2003-001State 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 96-001**

**WHEREAS**, The governing body of the City of New Berlin, Texas has determined that the repealing of Ordinance 96-001 and the passage of a new ordinance regulating the proper development of any subdivision of property is necessary to promote the safe, orderly, and healthful development of the community and to secure adequate provisions for traffic, light, air, recreation, transportation, water, drainage, sewage, and other public facilities for the citizens of the City of New Berlin, Texas; and

**WHEREAS**, the governing body of the City of New Berlin, Texas has determined that the passage of an ordinance regulating the proper development of any subdivision of property is necessary to abide by requirements set forth in the Texas Constitution, and the Texas Local Government Code;

**WHEREAS**, the governing body of the City of New Berlin, Texas has determined that these subdivision regulations are necessary in order to retain the country atmosphere and ranch style living that the community has been accustomed to and which the citizens wish to preserve by the inclusion of a minimum lot size; and

**WHEREAS**, since the city's incorporation over 25 years ago it has retained the rural setting and the Council believes the regulations and this ordinance as amended will maintain that for the citizens of New Berlin.

**NOW, THEREFORE:**

**IT IS 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.

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.

Additionally, the City Council is hereby requiring the owner of a tract of land located within the City limits or in the extra-territorial jurisdiction (ETJ) of the City who divides a tract in two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of the lots fronting on or adjacent to the streets, alleys, squares, parks, or other

Parts must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executor contract to convey, or by using any other method. A division of land under this section does not include a division of land into parts greater than five acres where 1) each part has less, and 2) no public improvements are being dedicated.

This ordinance, by reference, includes all other requirements as set forth in Tex. Loc. Gov't. Code Chapter 212, including all the other requirements as set out in Tex. Loc. Gov't Code section 2 12.004.

The City Council may amend the same from time to time. No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City of New Berlin, Texas. If a conflict exists or develops, this ordinance shall prevail. All such improvements shall be constructed, installed, designed, located and arranged by the sub-divider in accordance with such rules, regulations, standards and specifications and any others adopted by the City Council.

**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. It is also the purpose of this ordinance to retain the country atmosphere and rural community setting of the city by its requirements of minimum lot sizes.

B. This ordinance shall have the further purpose of repealing and hereby does repeal that certain ordinance # 96-001 heretofore passed by the City Council of New Berlin, Texas on the 17~ day of September, 1990, and any other ordinance or section of an ordinance in conflict.

**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 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 (1) 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 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. Sub-divider or Developer: The terms "sub-divider" 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 division of any lot, tract, or parcel of land into two or more lots or sites for the purpose of sale, building development (that includes the placement of another residence dwelling or commercial building) or transfer of ownership, whether immediate or future. The following is also defined as subdivision: testamentary division of property, partnership division of property upon dissolution, or division of property between two or more owners of an undivided interest by court order. Division of land into parcels of five acres or more shall not be included within this definition of subdivision where 1) each part has access, and 2) no public improvement is being dedicated. The city shall retain the right to review any and all subdivision of property to determine and verify that this exception applies. There shall exist only one residence per five-acre tract of land.

The issuance of variances for smaller acreage deemed for commercial use shall be presented to City Council for approval.

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 3(P), 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 the City will recognize no other subdivision. 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 County 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 Inter-local agreement between Guadalupe County and the City of New Berlin, Texas).

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 from the requirements of this ordinance.

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 sub-divider, 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 sub-divider 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, including those allowed under Tex. Loc. Gov't Code 212.018 and 54.012 etc. Seq.

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 AND SPECIAL CIRCUMSTANCES

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 sub-divider, standing alone, shall not be deemed to constitute undue hardship.
- E. A fee shall be assessed in accordance with the current fee schedule.

## SECTION 6. PRELIMINARY CONFERENCE

- A. Prior to the filing of a preliminary plat, the sub-divider shall meet with and present a proposed plan of the subdivision to the Planning and Zoning Commission for comments and advice on the procedures, specifications, and standards required by the City.
- B. Under no circumstance shall this pre-conference be construed as the official filing of a preliminary plat with the Planning and Zoning Commission. See Section 7(F).

## SECTION 7. PRELIMINARY PLAT

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

E. Statements in writing from all utility companies and permitting agencies servicing the area that service is available to meet the needs of the subdivision as proposed.

F. The filing of a preliminary plat for review by the Planning and Zoning Commission shall not be considered "filed" unless all of the items listed under Exhibit A attached to this Ordinance shall be delivered to the Chair of the Commission, reviewed by the Chair, and said checklist signed and dated by the Chair of the Planning and Zoning Commission. Only at such time will the preliminary plat be considered completed for purposes of requesting in writing a review and approval by the Planning and Zoning Commission. Once the checklist has been completed and signed by the Chair of the Planning and Zoning Commission, the sub-divider/developer shall file a formal application for preliminary plat approval in writing to the Planning and Zoning Commission at an official meeting. The approval procedure as set out in Texas Local Government Code 212.009 shall not begin until: (1) the Chair of the Planning and Zoning Commission has certified that the plat application is completed in accordance with this ordinance; and (2) a formal application has been received by the Planning and Zoning Commission at an official meeting.

G. 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") (minimum scale), 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 sub-divider, 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 crosswalk ways.

H. Processing of Preliminary Plat Review by Planning and Zoning Commission:

1) The Planning and Zoning Commission shall check the completed 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 completed application for approval of the preliminary plat, the Planning and Zoning Commission shall disapprove or conditionally approve such plat with written modifications.

3) Approval of a completed preliminary plat by the Planning and Zoning Commission shall be deemed an expression of approval of the layout submitted on the completed 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 completed preliminary plat shall not constitute automatic approval of the final plat.

4) Conditional approval of a completed preliminary plat shall be effective for one hundred eighty (180) days unless reviewed by the Planning and Zoning Commission in the light of new or significant information that would necessitate a revision of the preliminary plat. If the Planning and Zoning Commission should deem changes in a preliminary plat as necessary, it shall so inform, in writing, the sub-divider.

5) Approval of the completed preliminary plat does not constitute acceptance of the subdivision, but the developer/sub-divider has authority to proceed with the preparation of the final plat. Any work done on the subdivision prior to acceptance of the final plat is prohibited, and a penalty will be assessed if any work is commenced.

6) Approval of the preliminary plat expires at the end of one hundred and eighty (180) days, unless a final plat has been submitted to the Planning and Zoning Commission. The Planning and Zoning Commission may, if a written request is received from the sub-dividers/developer prior to the end of the one hundred and eighty (180) days, grant an extension up to an additional one hundred and eighty (180) days.

I. Time Limitation of Preliminary Plat. Any preliminary plat filed and approved by the Planning and Zoning Commission shall be valid for one hundred and eighty (180) days unless extended by the Planning and Zoning Commission for another one hundred eighty (180) days. In no event shall a preliminary plat be valid for longer than one (1) year from the date of its initial approval by the Planning and Zoning Commission.

## SECTION 8. FINAL PLAT

### A. Form and Content:

1) No final plat will be considered unless a preliminary plat has been first submitted and approved by the Planning and Zoning Commission. The final plat shall conform to the preliminary plat as conditionally approved by the Planning and Zoning Commission incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the Planning and Zoning Commission.

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) The original and eight (8) copies of the final plat shall be submitted at least fifteen days prior to an official Planning and Zoning Commission 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") (minimum scale). The final plat shall include all information required in the preliminary plat listed in Section 7 above.

4) The original and eight (8) copies of the site improvement data bearing the seal of an engineer shall be provided with the final plat. The improvement data shall include the location and dimensions and cost estimate of:

- a. streets, alleys, 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 sub-divider 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 and 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.
- e. Tax Certificates from the City, School District, and County, which indicate that all ad Val Orem taxes have been paid up to and including the current year on all land included within the final plat shall be provided.
- f. Letters of Certification by the proper authorized official of each Public Utility Company or board

proposed to serve the development shall be provided.

**B. Application:**

- 1) Formal application for the final plat approval shall be made by the sub-divider/developer in writing to the Planning and Zoning Commission at an official meeting.
- 2) No application shall be considered completed and filed until all the items required by this section have been received and the application is certified by the Chair of the Planning and Zoning commission or his designee. The checklist attached as Exhibit B must be signed and approved by the Chair of the Planning and Zoning Commission. The approval procedure as set out in Tex. Loc. Gov't. Code Chapter 212.009 shall not begin until (1) the Chair of the Planning and Zoning Commission has certified that the plat application is completed in accordance with the checklist set out in Exhibit B; and (2) a formal application has been received by the Planning and Zoning Commission at an official meeting.

**C. Processing of Final Plat:**

- 1) As soon as practical after the completed preliminary plat is approved, the sub-divider shall submit the completed final plat for approval. No final plat will be considered unless a completed preliminary plat has been submitted. However, if an approved plat has been duly recorded and the sub-divider 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 completed preliminary plat is necessary. Also, at the sub-divider'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. No application for a final plat shall be considered completed and filed until 1) all the items required by this section have been received and submitted; 2) the application for final plat approval is certified as completed by the Chair of the Planning and Zoning Commission or his designee; and 3) a formal written request for approval has been delivered to the Planning and Zoning Commission at a regularly scheduled meeting. Only then shall the time requirements of Tex. Loc. Gov't Code 212.009 begin.
- 2) At an official meeting following the filing of the completed final plat for approval, the Planning and Zoning Commission shall vote to approve or disapprove such plat. If the plat is disapproved, the Planning and Zoning Commission shall inform the sub-divider in writing with the reasons at the time such action is taken.

**D. City Council Review of Final Plat:**

If approval of the final plat by the Planning and Zoning Commission is granted by vote, or by operation of law, the proposed final plat will then be forwarded to the City Council for final approval or disapproval and for signature by the Mayor.

**E. Recording of Plat:**

After the final plat has been finally approved and the sub-divider 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 sub-divider 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 sub-divider. If the sub-divider 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.

**F. Time Limitations of Final Plat.**

Any final plat filed and approved by the City shall be effective for one (1) year unless reviewed by the Planning and Zoning Commission in light of new or significant information that would necessitate a revision of the final plat. In no event shall the final plat be effective for longer than two (2) years. At the expiration of one (1) year, and any extension, the sub-divider shall be required to file a new preliminary plat, and subsequent final plat and meet any new requirement or specification that the City may have adopted.



**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 one (1) year after the City accepts the construction. 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) **A proposed subdivision in the ETJ shall contain deed restriction provisions requiring that buildings erected for residential purposes contain not less than 1250 square feet of living area.**
- 6) **A proposed subdivision in the ETJ shall contain deed restriction provisions 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 sub-divider 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 un-subdivided areas.
- 4) **Street Jogs.** Wherever possible, street jogs with centerline 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 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.** Cul-de-sacs shall not exceed 500 feet in length.

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: (The Sub-divider shall be required to dedicate right-of-way sufficient to make one half of the required right-of-way).

(a) Collector streets shall have a right-of-way width of at least sixty (60) feet and a pavement width of at least thirty (30) feet.

(b) Minor streets shall have a right-of-way of at least fifty (50) feet and a pavement width of at least thirty (30) feet.

(c) Nonresidential marginal access streets shall have a right-of-way width of at least twenty (20) feet.

(d) 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 sub-divider 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.

(e) Streets pavement section shall be designed by a Registered Professional Engineer licensed in the State of Texas.

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. The developer shall prove evidence of approval of street names by the United States Post Office and the '911' emergency coordination agency.

13) Street Signs. Street signs shall be installed by the sub-divider 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 ft nor more than 18 ft 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. Hydrants shall be placed a minimum spacing of 1000 feet or closer if warranted by the number of homes in the subdivision as advised and reviewed by the City Engineer.

E. Sewage System. Septic system shall be designed by a TNRCC Licensed OSF installer and subject to approval of design and inspection, and shall meet all State regulations, State Health Department codes, as well as Guadalupe County and City of New Berlin requirements.

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 sub-divider 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 with headwater depth below the street base course. Developers shall provide a 25-year plus freeboard design for channels with a maximum of 6 feet per second velocity on earth drains.

H. Lots.

1) Residential Lot Sizes. In general, 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) Private, Gated Subdivision. In a private, gated subdivision, Residential lots shall be defined such that the total number of lots within the subdivision shall not exceed the total acreage of the subdivision divided by five (an average of 5 acres per lot). Additionally, at least 20% of the lots shall equal or exceed five acres and no lot shall be less than 3 acres.

Additionally, lots shall be at least two hundred (200) feet wide. Lots facing a public street will meet the other lot requirements of this ordinance. If, however, as a result of percolation tests described in Paragraph E of this Section, the County inspector deems the minimum lot area insufficient, the City' Council shall require additional area sufficient to accommodate the sanitary facilities deemed necessary. Remaining property in the subdivision may be used for parks, walking trails, church lots, and other uses that help retain an open, rural setting.

Where the proposed private, gated subdivision constitutes a unit of a larger tract owned by the sub-divider, which is intended to be subsequently subdivided as additional residential, commercial, or other 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, sewage, and other improvements for such areas. The sub-divider shall file the requirements as set out in Section 4(1).

3) Commercial Lots. Commercial lot sizes shall be determined on an individual basis as presented to City Council.

4) 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.

5) Side Lot Lines. Residential side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines or cul-de-sac streets.

6) Minimum Setback Lines. Minimum front building setback lines shall be required of at least seventy-five (75) feet on arterial streets or fifty (50) feet on lesser streets. 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 thirty (30) feet.

7) 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 thirty (30) feet.

8) 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.

9) Building setback from certain gas or oil lines. No property shall be developed for residential, commercial, or public use within twenty five (25) feet either side of the centerline of the right-of-way of high pressure gasoline, oil or gas line. Such lines and setback shall be shown on the preliminary and final plats.

10) Rear setback lines: Minimum rear setback lines shall be at least thirty (30) ft on interior lots.

## SECTION 11. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COSTS

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

## SECTION 12. RESPONSIBILITY FOR COST OF CITY ENGINEER REVIEW

The Sub-divider or developer submitting a completed preliminary or final plat shall be responsible for the cost for the City to obtain the assistance of an engineer to review the plat for compliance with this ordinance. Said cost not to exceed \$1,000.00 for the review of a preliminary, and shall not exceed \$1000.00 for the review of the final plat.

## SECTION 13. 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 amended.

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 assure 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. Plans for said drainage facilities must be designed, signed and sealed by a Registered Professional Engineer licensed in the State of Texas.

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 13A1 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 non-flood access to a public dedicated street, 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.
- 4) Provide non-flooded access to public roads.

#### SECTION 14. 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.

#### SECTION 15. SEVERABILITY

If any provision in this Ordinance is adjudicated by a court of competent jurisdiction to be invalid or otherwise unenforceable, the rest of the provisions not so adjudicated shall remain in effect.

This Ordinance shall be effective from and after its passage or from and after the 21st day of APRIL, 2003.

PASSED AND APPROVED this 21st day of 2003, with an effective date of 4-21, 2003

Ferdinand Friedrich  
MAYOR

ATTEST:

CITY SECRETARY

Janie Willare

FEE SCHEDULE

IN CONJUNCTION WITH ORDINANCE IS APPROVED: THE FOLLOWING FEE SCHEDULE IS APPROVED:

PRELIMINARY PLAT FILING FEE: (see Ordinance 2003-001 § 7©)

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

FINAL PLAT FILING FEE: (see Ordinance 2003-001 § 8(A)(2))

\$75.00

VARIANCE (only as granted by the City Council) (see Ordinance 2003-001 § 5(E))  
\$100.00 per variance

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This Fee Schedule shall be effective from and after its passage or from and after the 21st day of APRIL, 2003.

PASSED AND APPROVED this 21st day of APRIL, 2003, with an effective date of APRIL 21, 2003.

Ferdinand Friedberg  
MAYOR

ATTEST:

Jane Wallace  
CITY SECRETARY



FILED FOR RECORD

2003 JUN 13 AM 9:05

TERESA KIEL  
COUNTY CLERK GUADALUPE COUNTY

BY Schuleen Wells

THE STATE OF TEXAS  
COUNTY OF GUADALUPE

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly recorded in the Official Public Records of Guadalupe County, Texas.



Jesse Kial  
County Clerk,  
Guadalupe County Texas