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STATE OF TEXAS
CITY OF NEW BERLIN

ORDINANCE NO. 2021-004
Establishing Municipal Marshal Office

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF NEW BERLIN, TEXAS; CREATING THE OFFICE OF MUNICIPAL MARSHAL; PRESCRIBING FOR THE APPOINTMENT AND REMOVAL OF A MUNICIPAL MARSHAL BY ORDINANCE, THE TERM OF OFFICE, THE NEED FOR THE OFFICE, THE POWERS AND DUTIES OF THE MUNICIPAL MARSHAL, AND THE ORGANIZATIONAL STRUCTURE OF THE OFFICE; REQUIRING A BOND; AND PROVIDING FOR: REPEAL OF CONFLICTS, SEVERABILITY, A SAVINGS CLAUSE, MEETING OPEN TO THE PUBLIC AND AN EFFECTIVE DATE.

WHEREAS, the City of New Berlin, Texas is a Type B general law City incorporated and functioning as such under the provisions of Chapter 11, Title 28, Revised Civil Statutes of Texas, 1925, as amended; and

WHEREAS, On the 9th day of June 1975 the City of New Berlin was established by popular vote; and

WHEREAS Section 22.071 of the Texas Local Government Code provides that an aldermanic form of government in type B general-law municipality may appoint municipal officers by ordinance; and

WHEREAS Section 22.072 of the Texas Local Government Code provides that the City Council of the City of New Berlin Texas may require a municipal officer whose duties are prescribed by the Texas Local Government Code to perform additional duties; and

WHEREAS, Section 22.076 of the Texas Local Government Code provides that the City Council of the City of New Berlin, Texas shall require a municipal Marshal to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the official duties of the office; and

WHEREAS Section 341.021 of the Texas Local Government Code prescribes specifically that the marshal of a Type B general-law municipality has the same power within the municipality that a constable has within a precinct and is entitled to the same fees as a constable., and prescribes certain powers and duties of the municipal Marshal; and

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

SECTION 1. CREATION OF MUNICIPAL MARSHAL OFFICE.

The City of New Berlin Texas hereby creates the office of Municipal Marshal. The office of Municipal Marshal shall be an appointed salaried City employee position requiring minimum hours of work/service per week. The total operating budget allocation for the Municipal Marshal's

office shall be provided as a designated line item in the City's budget each fiscal year to include the appointed official's salary. The municipal Marshal and all Municipal Marshal Deputies shall serve as peace officers and have full police authority in the exercise of their assigned duties. Additionally, the Municipal Marshal and all Municipal Marshal Deputies are paid law enforcement officers for the purpose of qualifying for survivor's assistance benefits under State law

SECTION 2. APPOINTMENT OF MUNICIPAL MARSHAL; TERM; REMOVAL.

The City of New Berlin, Texas shall appoint the City of New Berlin, Texas Municipal Marshal by Ordinance to a term of no more than two (2) consecutive years. A Municipal Marshall may be re-appointed to additional two (2) year terms. Each subsequent re-appoint of a Municipal Marshal shall be by Ordinance. A Municipal Marshal may be removed from office only by Ordinance at the discretion of the City Council.

SECTION 3. NEED FOR THE OFFICE.

The City of New Berlin Texas adopts the attached Exhibit A as evidence of the City's need for a Municipal Marshal's Office.

SECTION 4. POWERS AND DUTIES.

The person appointed to serve as the Municipal Marshal shall faithfully perform the powers and duties as specifically prescribed by Section 341.021 of the Texas Local Government Code in addition to the following essential duties as hereby prescribed:

1. Develop policies and procedures mandated by law, to ensure efficient operations of the Municipal Marshal's office, and to implement directives from the City Council and Mayor.
2. Supervise and coordinate the preparation of an annual budget for the Municipal Marshal's office and direct the implementation of the office's budget.
3. Hire, coordinate, supervise and manage staff for the Municipal Marshal's office to include deputy marshals and support staff based on City needs and budget constraints.
4. Personally meet and ensure that each deputy marshal meets the Texas Commission on Law Enforcement Officer Standards and Education.
5. Coordinate and supervise the training, assignment, and development of all Municipal Marshal's office staff.
6. Serve as court bailiff in the Municipal Court and duties incident thereto.
7. Attend regular and special City Council meetings and other official City meetings as directed by the mayor.

8. Prepare and submit periodic reports to the mayor upon request and prepare a variety of other reports as appropriate.
9. Attend and/or designate staff to attend conferences and meetings to keep abreast of current laws and legislation regarding local law enforcement.
10. Perform the duties of subordinate personnel as needed.
11. Analyze, review specifications, plan for and recommend improvements to equipment and facilities, as needed.
12. Participate in various City and County law enforcement committees, as available.
13. Performance of such other duties as are delegated by the City Mayor.

As are all employees of the City of New Berlin, Texas, the Municipal Marshal and all deputies shall abide by and be subject to all City of New Berlin personnel policies.

SECTION 5. ORGANIZATIONAL STRUCTURE OF THE OFFICE.

The City of New Berlin Texas adopts the attached Exhibit B as the Organizational Structure of the Municipal Marshall's Office.

SECTION 6. BOND.

The person appointed to serve as the Municipal Marshal for the City of New Berlin, Texas shall execute a bond payable to the City and conditioned that the officer will faithfully perform the duties of the office.

SECTION 7. CONFLICT.

All Ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 8. SEVERABILITY.

If any section, subsection, paragraph, clause, phrase, or provision of this ordinance or the application of any section, subsection, paragraph, clause, phrase, or provision to any person or circumstance is adjudged to be invalid, the invalidity shall not affect other section, subsection, paragraph, clause, phrase, or provision or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 9. SAVINGS CLAUSE.

This Ordinance shall remain in full force and effect, save and except as amended or repealed.

SECTION 10. MEETING OPEN TO PUBLIC.

It is hereby found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall be effective upon passage and approval.

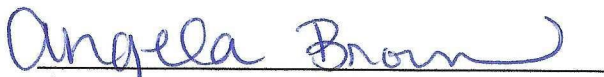
PASSED, APPROVED and ADOPTED ON the 13th day of December, 2021.

Ayes 3 Nays 1 Abstain 0



Walter C. Williams Jr, Mayor

ATTEST:



Angela Brown, City Secretary

(city seal)



EXHIBIT A

Need For Marshal's Office

New Berlin Marshals Office Need

Need for Marshal's Office

The City of New Berlin Texas governing body has discussed and decided that there is a need for the City to form a law enforcement agency. There are several reasons why the city believes that formation of a City Marshal's Office will be beneficial, including:

- Recent growth of the city and surrounding areas
- Strategic plan for future growth
- Providing faster law enforcement response time for a rural community
- City's control of law enforcement officers hired to work within the community
- Ability to implement community policing procedures
- Implementing crime prevention measures that are tailored to the community
- Increasing the frequency of patrol officers in the community, high visibility
- Ability to enforce municipal codes
- Ability to target problem areas within the community (Illegal dumping, Trucks operated on roadways that are not allowed).
- Law Enforcement available for special event security (Council meetings, scheduled events)
- Traffic enforcement

The city of New Berlin was established in June, 1975. New Berlin is in Guadalupe County, located between Saint Hedwig and Seguin.

Growth:

A picture of the future growth expectations for the City of New Berlin are reflected in a preliminary analysis prepared for the Guadalupe County Commissioners Court by economists at Texas Perspectives, part of a team led by Gap Strategies —the comprehensive planning firm that is helping Guadalupe County create its first strategic plan.

According to draft results, rapid growth will continue in Guadalupe County during the next two decades, reaching a projected population of more than 284,000 by 2040. As for how gradual the projected population increase will be, the report approximates a jump from 160,000 residents in 2017 to about 198,000 in 2025 before exceeding 284,000 in 2040.

Jeff Barton, who is serving as project manager for the plan, said growth in Guadalupe County is driven by a strong economy in what he said is becoming known as “the new mega region” of the greater Austin-San Antonio area. Barton said Guadalupe County is one of very few counties across the state that is mapping out its future through a strategic plan.

New Berlin Marshals Office Need



The New Berlin City limits are unique. Much of the incorporated area is surrounded by large areas of unincorporated land, some included in the Extra Territorial Jurisdiction (ETJ). The area has recently become the target of new home development that has, or will, greatly increased the population of the area. In the past few years there have been several housing communities built primarily within or near the ETJ, creating significant increase to traffic upon the city streets.

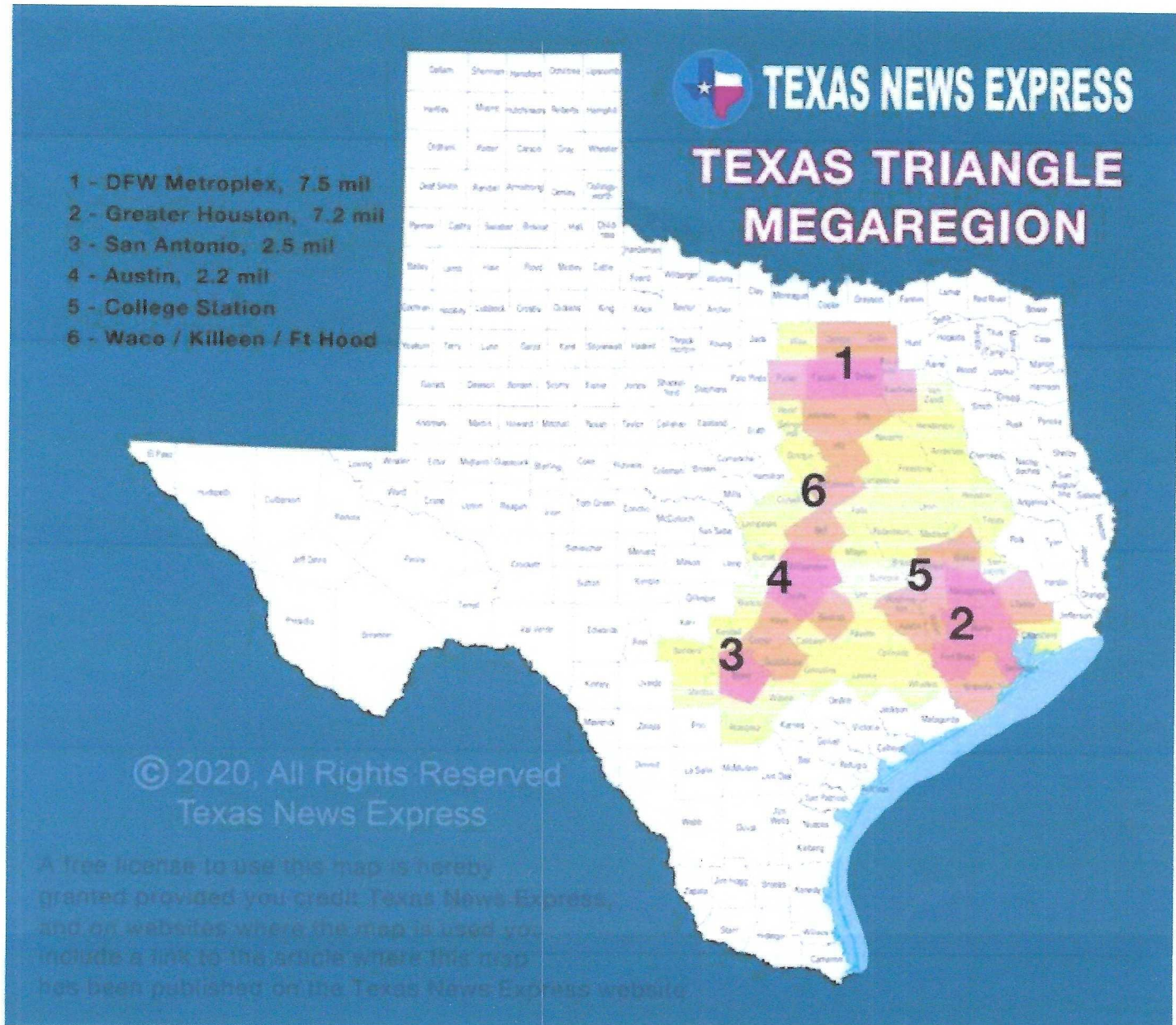
According to new data from the U.S. Census Bureau, the megapolitan area known as the Texas Triangle which encompasses the Houston, San Antonio, Austin and Dallas/Forth Worth areas and the many cities in between has reached 20,852,272, which means 1 in 16 people in the United States live in the Texas Triangle.

San Antonio's and Austin are expected to grow into one another becoming one combined metro area by 2030 with a future population of 6 million. (Texas News Express article, "The Texas Triangle Megaregion Nears 21 Million Residents" -10/06/2020) The City of New Berlin is near the center of the projected growth area.



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New Berlin Marshals Office
Need



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New Berlin Marshals Office Need

Response Times

A law enforcement agency within the city limits would greatly reduce response times for emergency and non-emergency calls. For more than 45 years the Guadalupe County Sheriff's Office has been the primary law enforcement agency responding to calls for service with the city of New Berlin. Although Sheriff's Deputies are assigned to patrol a specific area of the county, they are often more than 30 minutes away due to the size of the county, lack of personnel and the probability that they are already responding to other calls within the county. The establishment of a Marshal's Office within the City would provide a better service to the residents of the city with faster response times for all types of calls for service.

Control of law enforcement officers hired

The city of New Berlin will benefit by having control of who is hired to provide law enforcement services to the city. The City Government will select a Chief Marshal and approve the hiring of Deputy Marshals. This will help the city to ensure that their deputies working can be held accountable directly.

Community Policing & Crime Prevention

Having a law enforcement agency that works for the city will enable the agency to dedicate resources to community policing activities and develop crime prevention procedures that are tailored to the community.

Increasing the frequency of patrol

The city will benefit from the increased patrol activity created by having a local law enforcement agency. The increased patrol will deter criminal activity, regulate traffic, and allow the citizens of the community more opportunities to interact with law enforcement.

Enforce municipal codes

The ability to enforce municipal code violations is unique to the agency established and managed by the city. New Berlin has current municipal codes and ordinances that cannot be enforced properly without a municipal agency. The city intends to work with the Marshal's Office to establish additional codes and ordinances.

New Berlin Marshals Office Need

Targeting problem areas within the community

The city will benefit by having a law enforcement agency that can target specific problem issues within the city. In the past New Berlin has been a target for those who wish to illegally dump garbage, dead animals, etc. The Marshal's Office will be able to dedicate resources to preventing illegal dumping and investigating those who have dumped illegally.

The City of New Berlin has passed ordinance to restrict truck traffic from using streets. The ordinance is important to the safety of the citizens and the well being of the city streets. This, and other ordinances are difficult or impossible to enforce without a municipal law enforcement agency.

Law Enforcement available for special event security

The city will benefit by having a municipal law enforcement agency that will provide security for city council meetings and other city events. The Marshal's Office will also provide traffic control for events within the city limits that include bicycle rallies, parades, or other events.

Traffic enforcement

The city will benefit by having a municipal law enforcement agency that will control the speed of traffic and assure that the traffic laws of the state of Texas are enforced. This will provide a safer environment for the motorist, bicyclists, and pedestrians within the city.

Conclusion

The New Berlin City government has concluded there is a need, and they wish to establish a municipal law enforcement agency. The city explored other options of law enforcement to include a contract with the Sheriff, Constable, and other municipal agencies. After considering all available options the city government believes that it is in the best interest of the community to establish the New Berlin Marshal's Office.

EXHIBIT B

Organizational Structure of Marshal's Office

CITY OF NEW BERLIN MARSHAL'S OFFICE

Organizational Structure

The organizational structure for the New Berlin Marshal's Office includes the following staff by position:

- * Chief Marshal (1)
- * Deputy Chief (1) (Initially unpaid position)
- * Patrol Sergeants (1) (Initially unpaid position)
- * Police Reserve Officers (6) (unpaid position)
- * Administrative Assistant (N/A) (City Secretary provides support)

To develop a cost-effective staffing model that would still provide adequate coverage and supervision necessary for a stand-alone marshal's office, several sworn reserve (auxiliary) positions were included in the organizational structure. It is anticipated that some of these positions will become full time paid positions with time and growth.

Within the first 5 years of the agency inception the goal of the Marshal is to provide at least one sworn law enforcement officer on duty every Monday through Friday from 6:00 AM to 9:00 PM. Days and times may be adjusted to fit the needs of the community.

There are several different approaches that can be used to determine the number of deputies needed for an agency. Among the more popular are per Capita, minimum staffing, and workload based. The Marshal considered several criteria before concluding that the "minimum staffing" approach would be the best suited methodology for determining the size of the New Berlin Marshal's Office.

How many deputy marshals should New Berlin have? Sizing a police department must begin with the notion that the agency will operate on the foundation of sound police management practices that deliver stellar public safety services to all sectors of the community. In the case of New Berlin this means the residents and their homes, and finally the visitors who come to enjoy and recreate in the community. That being said, there is an understandable need to balance what the community can afford versus what the community wants in terms of police services, hence the need to employ reserve deputies and explore the availability of grants and funding sources.

In the view of the Marshal, the recommended staffing standard for the New Berlin Marshal's Office is appropriate for meeting the stated goals of the city and ensuring basic service delivery.

As a result, cost analysis is based on this configuration. Staffing was based upon the following formula:

1. Monday through Friday, 6:00 AM until 9:00 PM
2. Five working days per week @ 15 hours per day
3. Maximum working days per month = 22 (Based upon 31-day month)
4. 15 hours per day X 22 working days = **330 working hours per month needed** to cover
5. Marshal works minimum of 6.5 hours per day X 22 days per month = 143 hours
6. 330 hours needed, less **143 worked** by Marshal = **187 hours needed** to cover
7. 8 unpaid and reserve deputies work 12 hours per month each = 192 hours worked
8. **143 hours worked** by Marshal + **192 worked** by reserves and unpaid = **335 hours worked**

Hours Not Covered: During the hours not covered by New Berlin Marshal's Office, the Guadalupe County Sheriff's Office will provide law enforcement services to the city.

The unpredictability of policing, especially in these current times of nationwide tensions with law enforcement, may require the Marshal or Deputy Marshal to receive back-up assistance from the Sheriff's Office or the neighboring law enforcement agencies. Likewise, New Berlin law enforcement officers may be called on to assist outside agencies. The City of New Berlin enjoys low crime rates and a high quality of life but there is no immunity to the threat of an officer being assaulted or even worse killed in the line of duty.

There will always be a supervisor on duty, or on call. First, the Sergeant ensures supervisory oversight of line officer performance. Second, the Sergeant acts as an additional first responder for calls that require a supervisor's assistance.

The Sheriff Will Supplant Back-up Services: The Sheriff will provide routine back-up to the Marshal's Office, upon request. The Marshal or Deputy Marshal will contact dispatch and request back-up for calls that require a two-officer response. The Marshal or Deputy Marshal shall request assistance for any major in-progress violent crime or other event that qualifies as mutual aid.

Supervision Must Be Constant: Police officers are entrusted with broad discretion concerning who should or should not be arrested, incarcerated, or, in some instances, chased or restrained by use of force. It is crucial that officers are continuously monitored and held accountable for their performance. Failure to have qualified supervisors available (on call) at all times can result in catastrophic judgements of liability against New Berlin and /or result in a tragic death or injury resulting from failed or negligent supervision.

Chief Deputy or Equivalent Management Oversight: For similar reasons stated above, the Chief Deputy's job is to assist the Chief Marshal to ensure police operations and administration conform to policy, law, community expectations, and respond to change as needed. The Chief

Deputy is a “generalist “accountable to the Chief Marshal for a vast array of assignments ranging from being the Shift Supervisor at times to “Acting” Chief Marshal when the Chief Marshal is absent. It is vital that the Chief Deputy ensures supervisors are motivated, trusted, and well-respected by the line personnel. The Chief Deputy will be essential to helping the Chief delegate and stay on top of the many administrative functions that keeps a police department operating. Some examples of these duties would be: policy management, patrol administration, internal affairs, records management, property/evidence control, budgeting and cost control, fleet management, procurement/repair of equipment, training management, investigative case management, crime prevention, monthly reports, and grant applications. The position is proposed at the rank of “Chief Deputy” but the position could be reclassified to a lower rank of “Lieutenant,” with the same executive level duties as described above.

Per Capita Officer Rate: The 2013 FBI statistics on law enforcement staffing levels indicate the average officer’s per capita rate for cities with fewer than 10,000 residents is 3.5 officers per 1,000 inhabitants. The per capita rate is based upon full time officers. When considering per capita (while using reserve officers) one must consider that a single full-time officer will work 40 hours per week, averaging 176 hours per month. A reserve officer will work 24 hours per month. It would take 7.3 reserve officers to complete the same workload as one officer.

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TERESA KIEL, COUNTY CLERK



Teresa Kiel