

ZONING REGULATIONS THE CITY OF NEW BERLIN, TX

TITLE AND PURPOSE: This ordinance, together with all subsequent amendments thereto, shall hereby be referred to as the "Zoning Ordinance of the City of New Berlin, Texas."

WHEREAS, the City's Zoning regulations are necessary to reflect and address the growth of population within the City Limits; and

WHEREAS, the City of New Berlin Planning and Zoning Commission has met for numerous months and held public meetings regarding comprehensive Zoning Regulations for the City of New Berlin; and

WHEREAS, based on their studies and their meetings the Planning Commission has created a preliminary report of comprehensive Zoning Regulations, which includes standards and use regulations for various zoning designations ; and

WHEREAS, a public hearing was held by the City Council on _____ and on such dates preliminary policy discussions were conducted and at which all members of the public were given an opportunity to appear and express their opinion concerning the proposed comprehensive Zoning Regulations and after consideration of all such testimony, the Planning and Zoning Commission made a final report recommending the comprehensive Zoning Regulations to the City Council; and

WHEREAS, the City Council of the City of New Berlin has given appropriate and reasonable consideration to the zoning regulations as most appropriate for the City; and

WHEREAS, the New Berlin City Council finds that the zoning ordinance, as amended, represents the best interest of all citizens of New Berlin and promotes the aesthetics, health, safety, general welfare and convenience of the people.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BERLIN, TEXAS adopts the following Zoning Definitions and Regulations.

General Purpose:

For the protection and preservation of the City of New Berlin, Texas, and the general welfare of the citizens of the city; the following document serves to provide definitions and regulations to guide the city in future growth and development.

The city will recognize four types of zoning including residential, agricultural, commercial (business and industrial), and multi-use. An official zoning map will be kept on file with the city secretary.

The zoning committee and city council may impose additional reasonable restrictions or conditions. These requirements may include, but are not limited to: increased open space, loading and parking requirements, suitable landscaping, additional improvements such as curbing and sidewalks, drainage, and restriction on lighting, sound, and odors that affects the property of others.

Ordinances/regulations for newly formed subdivisions are addressed separately.

Permits for new construction of homes and businesses can be obtained at the New Berlin City Hall.

Applications for variances will be petitioned to the Planning and Zoning committee which may make recommendations to the city council. Previously existing parcels of land, dwellings, or businesses are Grandfathered from regulations.

This is a “living” document which will be reviewed and updated at least every three years.

OFFICIAL ZONING MAP

The city is hereby divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted and declared to be a part of this zoning ordinance. This map shall be kept on file in the office of the city secretary and shall be available for public inspection during regular office hours. The official zoning map shall be identified by the signature of the mayor and attested by the city secretary under the following words: “This is the official zoning map as adopted by (ordinance number and date of adoption) by the City Council of the City of New Berlin, Texas.”

When changes are made in any zoning district boundaries, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council. No zoning change shall become effective until after its approval by the city council.

RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following shall apply: 1. Where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line of such road or street shall be construed to be the district boundary line; 2. Where the district boundaries indicated follow platted lot or tract lines, the district boundaries shall be construed to follow such lot or tract lines. 3. Where the district boundaries indicated appear to follow city limit boundaries, the district boundaries shall be construed to follow the city limit boundaries. 4. Where district boundaries indicated as dividing a lot or tract, the district boundaries shall be construed as being located as shown on the Zoning District Map. Distances not

specifically indicated on the Zoning District Map shall be determined by the scale of the map. 5. Where district boundaries are disputed or not otherwise clearly designated, or where the physical or structural features are at variance with the official zoning map or in other circumstances not covered in this section, the mayor designated administrator shall interpret the district boundaries

GENERAL COMPLIANCE WITH DISTRICT REGULATIONS

The regulations established by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class and kind of structure or land, and in accordance with the following:

1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, reconstructed, enlarged or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.
2. No building or other structure shall hereafter be erected, reconstructed, enlarged or structurally altered to exceed the height or to occupy a greater percentage of the lot area which is prescribed for the district in which it is located.
3. The regulations contained herein relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions: a. Chimneys, non-commercial television receiving antennas, and satellite dishes as part of a residential development or use are hereby excepted from the height regulations;. Church steeples or spires, belfries, cupolas, cooling towers, tanks, water towers, microwave radio and television relay or broadcasting towers, mast or aerials and necessary mechanical appurtenances may exceed the height limitations established by this ordinance only upon the issuance of a special use permit or variance. When a lot has an area less than the minimum number of square feet, lot width or lot depth as required for the district in which it is located, and was of record as such at the time of the passage of this zoning ordinance, such lot may be continued to be occupied or used and nothing herein shall prohibit the erection a single family dwelling. d. An open, uncovered porch or paved terrace may project into a required front, back or side yard setback for a distance of not more than seven (7) feet, but shall not be interpreted to include or permit fixed canopies and it shall not be permanently attached to initial part of primary structure.
4. No part of a yard or other open space, off-street parking or loading space required in connection with any building for the purpose of complying with these zoning regulations shall be included as a part of a yard, open space, off-street parking or loading space similarly required for any other building.
5. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street; and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
6. Refuse containers or dumpsters shall not be located in the front or side yard of any business establishment or property zoned for non-residential, commercial or industrial use. This restriction shall not apply in cases where compliance would cause such containers to be inaccessible to refuse collection vehicles. For the purposes of this restriction, the designated administrator shall determine after reasonable investigation whether the container is accessible or not.

Agricultural Zoning (newly annexed) is established to be used primarily in areas where agricultural uses or open space should be retained. These lands should be continued to be used for agricultural or open space purposes until needed for urban purposes in conformity with the orderly growth of the city.

Residential Zoning is established to allow for large to medium sized single-family dwellings and multifamily dwellings on large lots. It is designed to protect the residential character by prohibiting non-residential activities and by encouraging a suitable neighborhood environment for family life. In addition to purely residential purposes, parks and open space are permitted and encouraged in this district.

The Commercial Zoning has been established to limit commercial uses and operations within enclosed buildings and prohibiting outside storage of new goods and materials, and new or used vehicles and equipment. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail and office space for merchants and financial, administrative, government and business services. This section is not intended to prohibit the outside display of merchandise in the normal course of retail business.

The Light Industrial Zoning is established to accommodate most industrial and manufacturing uses, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, noise, fumes or vibrations.

GENERAL PROVISIONS FOR OFF-STREET PARKING

Off-street parking required by this zoning ordinance shall be on an all-weather surface and shall be connected by an all-weather surfaced driveway to an approved public or private street or alley. For new construction or development started after the effective date of this ordinance, an all-weather surface shall be either asphalt or concrete pavement, crushed rock, stone, gravel or other similar semi-permeable surface.

No parking space shall be less than eighteen feet (18') in length (22' for parallel parking) and nine feet (9') in width. In the case of churches, off-site parking may be permitted by the board; provided, it is located within one thousand (1,000) feet of the church building. The city council shall approve the location of entrances and exists to these parking facilities and may require screening devices along the parking facility boundaries. In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space.

Parking spaces located in buildings used for repair garages or car washes shall not be counted as meeting the required minimum parking.. No off-street parking facility shall be located, either in whole or in part, in a public street or sidewalk, parkway, alley, or other public right-of-way. No off-street parking shall be located, either in whole or in part, within any fire lane required by the city or within aisles, driveways or maneuvering areas necessary to provide reasonable access to any parking space. No required off-street parking facility shall be used for sales, non-vehicular storage, repair or service activities.

Lighting facilities, if provided, shall be so arranged as to be reflected away from property zoned or used for residential purposes. For all multi-family and non-residential uses, parking spaces shall be striped or otherwise clearly designated on the parking facility surface and shall not include any fire lane or other area necessary for aisles or maneuvering of vehicles.

AMENDMENTS

The zoning regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or replaced. Such amendments, supplements, changes, modifications or repeal shall be deemed to amend, supplement, change, modify or repeal the comprehensive plan of the city and shall become a part of such comprehensive plan. An amendment to this ordinance may be initiated at the request of the owner, his/her agent, the designated administrative official, the planning and zoning commission or the city council on its own motion when it finds that the public may benefit from the consideration of such matter

The Planning and Zoning Commission shall make a preliminary report on all proposed changes and hold public hearings thereon before submitting its final report to the City Council.

If a proposed change to a regulation or boundary is protested in accordance with this ordinance, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the City Council. The protest must be written and signed by the owners of at least 20 percent of either: (a) the area of the lots or land covered by the proposed change; or (b) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. In computing the percentage of land area, the area of streets and alleys shall be included. Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment, however, all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.

City of New Berlin, Texas

Planning and Zoning Definitions and Regulations

All newly annexed areas will be initially zoned as Agricultural (Ag) with the opportunity to apply for new zoning during development application process. Building Permits will not be issued until property has gone through the zoning process.

Zone Definitions

Agricultural Zones include farming, ranching, related activities and accessory uses; including the owner's single-family dwellings.

Commercial Zones include both Business and Industrial Zones.

Business zones include offices, hotels, motels, studios, light commercial businesses, bars, gas and convenience stores, and restaurants.

Industrial zones are defined as a business that mass produces a product for sale.

Light Industrial Zones are defined as a business that mass produces a product for sale.

Mixed-Use Zones are Churches, governmental buildings, parks, airports and airfields, fire stations, and other public or semipublic recreational facilities and fraternal buildings.

Residential Zones include both Single Family Dwellings and Multifamily- Apartments and Duplexes

Single family dwellings are constructed homes and manufactured homes and mobile homes that may have accessory buildings such as detached garages, storage sheds, workshops, or barns.

Apartments, Duplexes, Garden Homes, and Condominiums are dwelling units in which rooms and apartments are rented to resident guests but excludes retail businesses.

Zoning Regulations

Residential Zones

Single Family Dwellings

Multifamily- Apartments, Duplexes

Single Family Dwellings

To maintain a rural “country” atmosphere, a minimum five-acre parcel of land per dwelling is recommended. The county requires a 1-acre parcel for septic installation of a single- family dwelling.

200 ft from arterial roadway

Setbacks-Follow setbacks as defined in the City Subdivision of Land Ordinance.

Mobile Homes must have skirting and be at least 1120 sq. ft. in area.

Apartments, Duplexes, Garden Homes, and Condominiums:

-Maximum height 2 stories

-Minimum of 2 parking spaces per unit

-No more than 6 units per acre

- For every 10 acres of development, one acre must be developed into a park/recreational area

-A drainage study by civil engineer to submit to city

Agricultural Zones

There are many farms in the community which have been passed down through generations. These parcels of land will remain agricultural. If a family sells a portion or all of the land for subdivision development, the subdivision ordinance will be followed.

Commercial Zones

Business zones

Businesses will promote the most desirable uses of land and the direction of city development with consideration given to traffic flow and to strengthen the economic base of the city. Businesses will:

- Maintain site management to include trees, shrubs, fencing, parking, and buffering to neighboring residents
- Landscaping will be finished within a 6 month time frame from start date of business.
- New Businesses will put up privacy fences around the property
- Hotels and motels are restricted to two stories in height.

Light Industrial Zones

- Debris and pollution are regulated by TCEQ (Texas Commission of Environmental Quality).

Mixed-Use Zones

Airfields- The City of New Berlin has several private airstrips.

New Development

Commercial and Light Industrial zones will be located up to ½ mile south of IH 10.

Commercial and mixed-use zones will be located up to ½ mile from the junction of FM 775 and FM 2538 and offset 500' width from the centerline of the designated right of way.

“Dark sky” standards for signs and streetlights:

Newly proposed lighting will preserve the Rural Character of New Berlin and areas within the extra-territorial jurisdiction and to prevent Urban Sky Glow.

Newly proposed lighting will prevent light trespass on adjacent properties and mitigate glare. Fixtures should face downward and prohibit light emission above the horizontal plane which would pollute the night sky.

Fixtures will mitigate glare, provide safety and security and conserve energy.

Related Ordinances

The following New Berlin City ordinances are directly applicable to the Zoning Regulations:

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| 76-007 | Abandoned Vehicles |
| 91-004 | Noise |
| 91-005 | Feed Lots/ Livestock per acre |
| 94-002 | Clear Driver visibility |
| 94-003 | Sexually oriented businesses |
| 01-01 | Public rights of way |
| 02-002 | Airport Advisory Committee |
| 04-002 | Outdoor Burning |
| 04-003 | Flood damage prevention |
| 2008-001 | Use of signs |
| 2021-002 | Building permits |
| 15-003 | Management of Trees |

Additional Definitions:

Zoning keys (types):

- Ag - Agricultural
- Cb - Commercial Business Zone
- Ci - Commercial Industrial Zone
- Mu - Mixed-Use Zone
- Rs - Residential Single-Family
- Rm - Residential Multi-Family