

ORDINANCE # 20151207-A

ORDINANCE ADOPTING RULES OF THE CITY OF NIEDERWALD, TEXAS
FOR ON-SITE SEWAGE FACILITIES

PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the City Council of the City of Niederwald, Texas should enact an ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Niederwald, Texas; and

WHEREAS, the City Council of the City of Niederwald, Texas finds that the use of on-site sewage facilities in the City of Niederwald, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the City Council of the City of Niederwald, Texas has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in the City of Niederwald, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF NIEDERWALD, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in the City of Niederwald, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Ordinance for the City of Niederwald, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

AN ORDINANCE ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Ordinance repeals and replaces any other On-site Sewage Facility (OSSF) Ordinance for the City of Niederwald, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The City of Niederwald, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Ordinance.

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the area lying within the incorporated limits of the City of Niederwald, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of the City of Niederwald, Texas must comply with the Rules adopted in Section 8 of this Ordinance.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of the City of Niederwald, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

SECTION 10. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of the City of Niederwald, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

SECTION 11. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the City of Niederwald, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC, Chapter 367.

SECTION 12. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the City Council of the City of Niederwald, Texas.

SECTION 13. ENFORCEMENT PLAN

The City of Niederwald, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Ordinance adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

SECTION 14. SEVERABILITY

It is hereby declared to be the intention of the City Council of the City of Niederwald, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of such unconstitutional phrases, clauses, sentences, paragraphs, or sections.

SECTION 15. RELINQUISHMENT OF ORDINANCE

If the City Council of the City of Niederwald, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the City Council, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

SECTION 16. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 7th DAY OF DECEMBER, 2015.

APPROVED:

(SEAL)



Reynell Smith
Mayor

ATTEST:

Richard Z. Campbell
City Administrator/City Secretary