

ORDINANCE NO. 20190701-A

**AN ORDINANCE AMENDING ORDINANCE NO. 122000-A, AS AMENDED, THE SUBDIVISION ORDINANCE OF THE CITY OF NIEDERWALD, TEXAS; PROVIDING FOR THE ADOPTION OF REGULATIONS APPLICABLE TO DEVELOPMENT PLATS AS AUTHORIZED BY CHAPTER 212, SUBCHAPTER B TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR A SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND VARIOUS OTHER PROVISIONS.**

**WHEREAS**, the City of Niederwald, Texas, ("City") is a Type A general law municipality; and

**WHEREAS**, Chapter 212 of the Texas Local Government Code authorizes the City to regulate subdivision development; and

**WHEREAS**, Chapter 212, Subchapter B of the Texas Local Government Code authorizes the City to adopt general plans, rules, or ordinances governing development plats of land within the city limits and in the extraterritorial jurisdiction of the City to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City; and

**WHEREAS**, the City Council of said City, has adopted subdivision regulations; and

**WHEREAS**, the City Council is of the opinion and finds that the adoption of amendments to the City's Subdivision Ordinance requiring development plats will promote the public health, safety, and general welfare; Now Therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIEDERWALD, TEXAS THAT:**

**I.**

Section 15 of Ordinance No. 122000-A is hereby amended in its entirety to read as follows:

**Section 15. Development Plat**

- A. Authority:** This Section is adopted pursuant to Texas Local Government Code, Chapter 22, Subchapter B, Sections 212.041-212.050, as amended.
- B. Applicability:** For purposes of this Section, the term "development" means the construction of any building, structure, or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This Section shall apply to any land lying within the city limits of the City or within its extraterritorial jurisdiction in the following circumstances:
1. The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein; or
  2. The development of any tract of land for which the property owner claims an exemption from the City's Subdivision Ordinance, including the requirement to plat, which exemption is not expressly provided for in such regulations; or

3. The development of any tract of land for which the only access is a private easement or street; or
  4. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.
- C. **Exceptions:** No development plat shall be required:
1. Where the land to be developed has received an approved final plat or replat; or
  2. For bona fide agricultural activities.
- D. **Prohibition on Development:** No development shall commence, or any building permit be granted (if located within the city limits) for a development or land division subject to this Section, until a development plat has been approved by the Commission and City Council and submitted to the City Secretary for filing at the County.
- E. **Standards of Approval.** The development plat shall not be approved until the following standards have been satisfied:
1. The proposed development conforms to all City plans, including but not limited to the comprehensive plan, utility plans, and applicable capital improvements plans;
  2. The proposed development conforms to the requirements of the City's Zoning Ordinance (if located within the city limits) and this Subdivision Ordinance;
  3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
  4. The proposed development will not create a safety hazard on a public street; and
  5. Appropriate agreements for acceptance and use of public dedications to serve the development have been received by the City and/or other applicable public entities.
- F. **Approval Procedure:** The application for a development plat shall be submitted to the City in the same manner as a final plat and shall be approved, conditionally approved, or denied by the Commission and City Council in a similar manner as a final plat. Upon approval the development plat shall be filed at the County by the City Secretary in the same manner as prescribed for a final plat.
- G. **Submittal Requirements:** In addition to all the information that is required to be shown on a final plat, a development plat shall:
1. Be prepared by a registered professional land surveyor;
  2. Clearly show the boundary of the development plat;
  3. Be accompanied by a site plan showing each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change therein;
  4. Show all easements and rights-of-way within or adjacent to the development plat; and
  5. Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate or some other form of verification from the Hays County Appraisal District or the Caldwell County Appraisal Districts showing all taxes have been paid on the land.

## II.

Section 16 of Ordinance No. 122000-A is hereby amended in its entirety to read as follows:

#### **Section 16. Relation to Other Ordinances**

Wherever, the requirements of this Ordinance are at variance with the requirement of any other applicable law, the most restrictive, or that imposing the higher standard, shall apply.

### **III.**

Section 17 of Ordinance No. 122000-A is hereby amended in its entirety to read as follows:

#### **Section 17. Severability**

Should any of the various clauses, sentences, paragraphs, sections or parts of this Ordinance be held for any reason invalid, unconstitutional, or unenforceable as applied to a subdivision or a particular property, building, or structure therein, the same shall not be construed to affect any other valid portion of this Ordinance; but all valid portions hereof shall remain in full force and effect.

### **IV.**

Section 18 of Ordinance No. 122000-A is hereby amended in its entirety to read as follows:

#### **Section 18. Enforcement Provisions**

- A.** Any person violating any provision of this Ordinance within the corporate limits of the City shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding five hundred dollars (\$500.00) per offense. Each day that such violation continues shall be a separate offense. Prosecution of conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance.
- B.** In the event any provision of this Ordinance is violated within the corporate limits of the City, or outside such corporate limits but within the area of extraterritorial jurisdiction of the City, the City may institute any appropriate action or proceedings in District Court or another Court of Competent jurisdiction to restrain and enjoin the violation of such Ordinance.

### **V.**

Section 19 of Ordinance No. 122000-A is hereby amended in its entirety to read as follows:

#### **Section 19. Waivers**

- A.** **Authority to Grant Waivers:** Waivers for any requirements of this Ordinance shall be granted only by the City Council unless otherwise specified or prohibited by law.
- B.** **Procedure:** Fifteen (15) copies of the request for waiver shall be submitted in writing to the City Secretary no less than fifteen (15) working days prior to the meeting at which the Planning Commission is to consider the waiver request.
- C.** **Reasons for Request:** The request shall specifically and clearly state the section or sections of the Ordinance for which the waiver is being requested and reasons for the request, including any supporting documentation.

D. **Fees:** Any fees incurred by such request shall be paid by the applicant in full at the time of filing.

**VI.**

That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance 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.

**VII.**

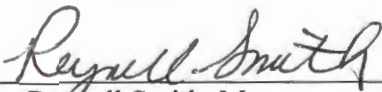
That this Ordinance shall take effect immediately from and after its passage, and it is accordingly so ordained.

**VIII.**


That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**PASSED AND APPROVED** on this 1<sup>st</sup> day of July, 2019.

**CITY OF NIEDERWALD, TEXAS**

  
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Hon. Reynell Smith, Mayor

**ATTEST:**

  
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Richard Crandal  
City Administrator/Secretary

