

AN ORDINANCE ADOPTING AND PROMULGATING RULES AND REGULATIONS COVERING THE PLATTING OF LAND INTO SUBDIVISIONS IN THE CITY OF NIEDERWALD, TEXAS, AND REQUIRING PLATS TO CONFORM TO SUCH RULES AND REGULATIONS PROVIDING AND SETTING FORTH AND REQUIRING PAYMENT THEREOF, AND PROVIDING FOR PENALTIES AND DECLARING AN EMERGENCY IN ITS ENACTMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIEDERWALD, TEXAS, THAT THE FOLLOWING RULES AND REGULATIONS AND CHARGES SHALL GOVERN THE APPROVAL AND REQUIREMENTS OF PLATS WITHIN THE CORPORATE LIMITS OF THE CITY OF NIEDERWALD, TEXAS.

SECTION 1. INTERPRETATION AND PURPOSE

In the interpretation and application of the provisions of these regulations, it is the intention of the City Council of Niederwald that the principles, standards and requirements provided for herein shall be minimum requirements for the platting developing of subdivisions in the City of Niederwald, and, where other ordinances of the City are more restrictive in their requirements, such other ordinances shall control. The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits of the City of Niederwald, Texas and for such other areas as may be authorized by Article 970a and 974a of Texas Revised Civil Statutes are intended to:

Promote and develop the utilization of land to assure the best possible community environment in accordance with the Community Development Plan of the City of Niederwald.

Guide and assist and expedite the developers in correct procedures to be followed and to inform them of the standards which shall be required.

Protect the public interest by controlling the location, design, class and type of streets, sidewalks, utilities, and essential areas and services required.

Protect and promote the health, safety, and general welfare of the community.

SECTION 2. DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural

number, and words in the masculine gender include the feminine gender. Definitions are expressly prescribed herein to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

Subdivision. The term "subdivision" for the purpose of this ordinance shall mean the division of a parcel or tract of land into two or more lots or parcels for the purpose of transfer of the ownership or building development of a residential area. "Subdivision" includes re-subdivision, but it does not include the division of land for agricultural purposes into parcels of tracts of five acres or more and not involving any new street, alley or easement of access.

Streets. The term "street" shall mean a way for traffic and shall be at least sixty feet in width.

Developer. The term "developer" shall include and mean any person, partnership, firm, association, corporation, and/or any officer, agent, employee, servant, and trustee thereof, who does, or participates in the doing, of any act toward the subdivision of land within the intent, scope, and preview of this Ordinance. The singular shall include the plural and the plural shall include the singular.

Public Facilities. The term "public facilities" shall refer to such utilities, streets, sidewalks, and drainage structures as may be required by the City to adequately protect the health and safety of the population in the subdivision.

SECTION 3. RULES AND REGULATIONS

The City Council shall adopt regulations governing the submittal and review of plats and subdivisions, and rules of procedures to govern its actions. Such rules and regulations shall be consistent with the provisions of this Chapter and shall become effective upon being filed with the City Secretary. Such rules and regulations shall specify form and content of required submissions.

** In those cases where a rule, regulation or standard is referenced and there being no need for a rule, regulation or standard, the rule, regulation or standard of the County in which the subdivision lies will be enforced. It.*

SECTION 4. APPROVAL OF SUBDIVISION REQUIRED

A. Preliminary Plan

Until a preliminary plan of a subdivision is approved in accordance with these controls, no person shall subdivide or submit a final plat thereof, or file a record of survey, or a map or plat for record, or proceed with any grading, construction or other work on the same. The City Council shall approve or disapprove any preliminary plat within thirty (30) days from the date of the meeting at which it is filed with the City Council.

** Appended Council meeting and public hearing on June 1, 1992.
Effective date: June 1, 1992*

B. Final Plat

A final plat of a subdivision which conforms to these regulations and to all conditions affixed to the City Council's approval of the preliminary plan shall be approved by the City Council for recording in the County Plat Records. Any plat which does not conform to these regulations shall be disapproved within thirty (30) days of the meeting at which it is filed. The final plat shall be accompanied by the filing fee prescribed by the City Council and by certificates from the City, School District and County Tax Collectors showing that all City, School District and County taxes on the land being subdivided have been paid for the current year.

SECTION 5. GENERAL SUBDIVISION DESIGN - STANDARDS AND SPECIFICATIONS

No preliminary plat or final plat shall be approved by the City Council unless the subdivision follows good planning practices and proven engineering practices. No subdivision or master plan of the proposed subdivision shall be approved unless it is in conformity with the City Plan at such time as said City Plan may be adopted or revised by the City Council. All facilities shall be constructed in accordance with the City of Niederwald Construction Standards as referenced herein, and made a part of these regulations. All streets and alleys shall be dedicated to the public in accordance with these requirements. No private streets will be permitted. The Council will review each proposed subdivision on its own merit, and reserves the right to refuse any subdivision which is not in the conformity or character with existing land use practices in the community. All lots in a proposed subdivision will have a minimum of one (1) acre in size.

SECTION 6. PROCEDURES FOR FILING SUBDIVISION PLAT

Previous to the filing of an application for conditional approval of the Preliminary Plat, the subdivider shall confer with the Planning Commission to discuss the proposed plat and the proposed subdivision and requirements thereof.

Next, the developer shall present such plat and plans to the Planning Commission for consideration at its next meeting. Such commission may take what time it deems appropriate to consider such Preliminary Plat, which shall be filed in at least two copies. The commission will then submit its recommendations to the City Council.

The developer shall then present such plats and plans to the City Council for final approval. Before any final approval shall be given to a developer for such plat, if the subdivider chooses to file security in lieu of completing construction prior to recordation of the final plat, he may utilize one of the following methods of security. If the subdivider chooses to file security, the plat shall not be recorded unless the subdivider has one of the following:

1. Performance Bond - File with the City a bond executed by a surety company holding a license to do business in the State of Texas, such bond to be at the expense of the developer acceptable to the City, on the form provided by the City, in an amount equal to the cost of the improvements required by this Ordinance, and within the time for completion of the improvements as estimated. The performance bond shall be approved as to form and legality by the City Attorney.

2. Trust Agreement - Have placed on deposit in a trust account in a bank or trust company, in the name of the City and approved by the City, a sum of money equal to the estimated cost of all site improvements as required by this Ordinance, the cost and time of completion. The selection of the trustee shall be subject to approval by the City, and the trust agreement shall be executed on the form provided by the City and approved as to form and legality by the City Attorney. Periodic withdrawals may be made from the trust account for a progressive payment of installation costs. The amounts of such withdrawals shall be based upon progress and work estimates approved by the City Council. All such withdrawals shall be approved by the trustee.

3. Unconditional Guarantee from Local Bank or Local Federal Insured Savings and Loan Association or other Financial Institution as approved by the City of Niederwald - Have filed with the City on a form approved by the City, signed by a principal officer of a local bank or local federally insured savings and loan association or other financial institution acceptable to the City, agreeing to pay to the City of Niederwald, on demand, a sum of money equal to the estimated costs of installation of all improvements required by this Ordinance, and to be applied to installing said improvements for which the subdivider or developer is responsible under this Ordinance. The guaranteed payment sum shall be estimated costs and scheduling as prepared by the Building Official. The letter shall state the name of the subdivision and shall list the improvements for which the subdivider or developer is responsible under this Ordinance. If the subdivider chooses to construct the required improvements prior to recordation of final plat, all such construction shall be inspected while in progress by the designated representative of the City and approved upon completion. A certificate by such officer stating that the construction conforms to the specifications and standards contained herein or referred to herein must be presented to the City prior to recordation of the final plat.

SECTION 7. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COSTS

The subdivider shall be responsible, at his own expense, to dedicate such rights-of-way and construct such water mains, fire hydrants, sanitary sewers, storm sewers, streets, sidewalks, and drainage ditches of such size as to adequately serve the area being subdivided, as determined by review of the City Council. All facilities shall be constructed in accordance with the City

of Niederwald's established construction standards.

SECTION 8. EXTENSION OF PUBLIC FACILITIES

Where necessary, in order to properly serve the subdivision with public facilities, the City may require that the extension of existing public utilities be made or that such facilities be constructed outside the subdivision. The extensions of such facilities are here referred to as "off-site improvements", and the subdivider shall install such off-site improvements of such a size as to adequately serve the area being subdivided at his own expense.

SECTION 9. ADMINISTRATIVE EXPENSES, FEES, AND INCIDENTAL EXPENSES

All legal fees incident to subdivisions, all fees for engineering and surveying, and recordation fees shall be paid by the developer. In the event the City has to secure the services of an engineer, planner, attorney, and any related field or expertise to review the proposed subdivision, the developer shall also pay for those costs. Such fees will be due in advance and shall be based upon the estimates of the City. In the event that, upon final consummation, such costs as estimated by the developer and Council are insufficient to cover the items, such developer shall, within ten days of notification thereof by the City Council, pay to the City of Niederwald the balance of such cost. In the event that such costs are less than the estimate of the City Council and developer, the surplus shall be paid by the City of the developer within ten days after final completion of such project.

SECTION 10. PROCEDURE FOR APPROVAL OF FINAL PLAT

The final plat shall conform to the preliminary plat as approved, and incorporating all changes, directions and additions imposed by the City Council of Niederwald, Texas. The final plat shall not be released for filing until detailed plans have been approved by the City of Niederwald. If so desired by the developer, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and then develop, provided, however, that such portion conforms to all the requirements of these regulations. Upon receipt of the final plat, accompanied by a final filing fee as prescribed herein, the City Secretary shall check the plat to ascertain its compliance with these regulations and the action of the City Council. When the copy of the final plat has been checked and found to meet all general requirements and design standards, all fees and required certifications filed, the developer shall submit two (2) copies of the final plat to the City Secretary. The City Secretary shall stamp on each of the two (2) copies the certificate of approval of the City Council attested by the Mayor when such final plat has been approved. The developer or his authorized agent will secure the required number of plats and record them with the County Clerks of Hays, and/or Caldwell Counties, Texas,

as applicable, within thirty (30) days of the date of the final approval. Otherwise the approval of the City Council becomes invalid. Two (2) copies of the recorded final plat shall be returned within 10 business days to the City Secretary. Plans showing details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other details of the subdivision shall be submitted to the City Secretary along with the final plat of the subdivision. Such plans shall conform to the design standards established by the City of Niederwald. The final plat will not be released for filing until detailed plans have been approved by the City Council.

SECTION 11. ADMINISTRATION

The City Council of the City of Niederwald, Texas, acting in good faith, shall be the sole and final arbiter as to whether or not the public facilities and other requirements contained in this Ordinance have been satisfactorily complied with, so far as construction and operations are concerned. If same do not meet such standards, then the reconstruction or repair should be done forthwith at the sole and complete cost of the developer so far as both material and labor are concerned.

SECTION 12. CONFLICT WITH OTHER ORDINANCES

All ordinances or parts of ordinance inconsistent with the terms of this Ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency, and in all other aspects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matters covered by this Ordinance.

SECTION 13. SEPARABILITY CLAUSE

If any section, clause, paragraph, sentence or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such invalid section, clause, paragraph, sentence or phrase is hereby declared to be severable, and such invalid or unconstitutional section, clause, paragraph, sentence, or phrase shall in no way affect the remainder of this Ordinance, and it is, hereby declared to be the intention of the Council that the remainder of this Ordinance will be passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence, or phrase thereof.

SECTION 14. PENALTIES

Violation of any of the provisions of this Ordinance by any subdivider shall constitute a misdemeanor and upon conviction of such violation, a fine of not less than \$100.00 nor more than \$200.00 shall be imposed, and each day that such violation continues shall be a separate offense. In the event a corporation is the violator of any provision of this ordinance, each officer, agent, and/or employee committing or assisting in the commission or acting as an accomplice of such violation shall

be individually and severable liable for the penalties herein prescribed.

SECTION 15. VARIANCES

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 the 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 Council finds:

1. 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
2. That the variance is necessary for the preservation and enjoyment of a substantial right of the applicant; and
3. 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
4. That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Ordinance. Such findings of the Council, together with specific facts upon which such findings are based, shall be incorporated into official minutes of the City Council meeting at which such variance is granted. Variances may be granted only when in harmony with the General purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

SECTION 16. EMERGENCY

Whereas an emergency becomes apparent for the immediate preservation of order, health, safety, and general welfare of the public it would require that this Ordinance become effective immediately; and therefore, the rule requiring ordinances to be read at separate meetings is suspended as to this Ordinance, and same shall be in full force and effect from and after its final passage.

FINALLY PASSED AND APPROVED this 1 day of July, A.D.
1991

Jack Clay Hodges
Jack Hodges, Mayor
City of Niederwald, Texas

ATTEST

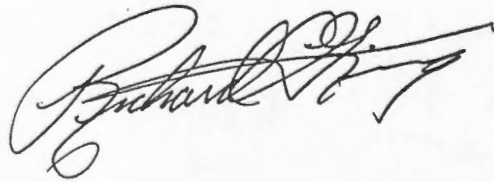
Stephanie Stephens
Stephanie Stephens, City Secretary



Amended June 1, 1992, Effective Date, June 1, 1992
Passed and approved June 1, 1992
Fern Hawze, Mayor
City of Niederwald, Texas

10-16-91

The Planning Commission recommends that the City Council
adopt the Platting Checklist (as per attached) to go with
the Subdivision Ordinance. # 070191-A

A handwritten signature in cursive script, appearing to read "Richard H. [unclear]", with a large, stylized flourish at the end.

CITY OF NIEDERWALD

SUBDIVISIONS

PLATTING CHECKLIST

NO. P 100791

FIRST READING

Preliminary Plan

Name of Proposed Subdivision

Name and Address of Owner/Developer

Names of Adjoining Owners

Land Use of Adjoining Owners

Master Development Plan (if subdivision is a
portion of a larger tract)

Location Map

Scale (not smaller than 1" - 200')

North Arrow

Contour Information

Major Topographic Features

Total Acreage in Subdivision

Total Number of Lots in Subdivision

Typical Lot Dimensions

Land Use of Lots, Parks, Greenbelts

Total length of Roads

Width of Right of Way

Special Flood Hazard Areas/Note

Road Maintenance

_____ County

_____ Private with Home Owners' Association

CITY OF NIEDERWALD

SUBDIVISIONS

PLATTING CHECKLIST

NO. P 100791

SECOND READING

Final Plan

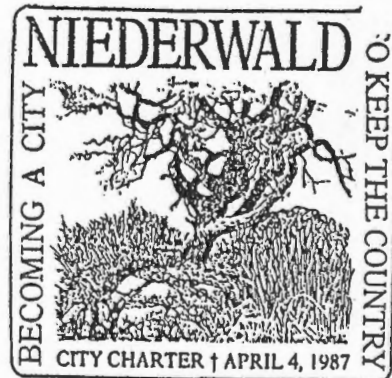
_____	All Information Required for Preliminary Plan
_____	Lot and Block Numbers
_____	Street Names
_____	Acreage of each Lot or Parcel
_____	Name and Address of Surveyor/Engineer
_____	Location and Size of Drainage Structures
_____	Location, Size and Proposed use of Easements.
_____	Edwards Aquifer Boundaries/Note
_____	Incorporated City's Boundary/ETJ/Note
_____	Servicing Utility Companies/Note
_____	Restrictive Covenants
_____	Tax Certificates
_____	Home Owners' Association Incorporation Articles and By-Laws (Private Roads Only)

FINALLY PASSED AND APPROVED this 7th day of OCTOBER, A.D.
91

Jack Clay Hodges
Clay Hodges, Mayor
City of Niederwald, Texas

ATTEST

Stephanie Stephens
Stephanie Stephens, City Secretary



____ Names and Widths of Adjoining Streets
____ Names of Adjoining Owners
____ Land use of Adjoining Property
____ Areas of Special Flood Hazards
____ Owner's Certificate
____ Road Maintenance Certificate
_____ Home Owners' Association Incorporation
Articles and By-Laws (Private Roads
Only)
____ County Approval Certificate
____ Recording Certificate
____ Sewage Disposal Certificate
____ Water Supply Certificate
____ City Approval Certificate
____ Surveyors' Certificate
____ Road Construction Security

CITY OF NIEDERWALD

SUBDIVISIONS

PLATTING CHECKLIST

THIRD READING

Record Plat

_____	Name of Proposed Subdivision
_____	Location Map
_____	North Arrow
_____	Lot and Block Numbers
_____	Total Acreage in Subdivision
_____	Total Number of Lots
_____	Acreage within each Lot or Tract
_____	Total Length of Roads
_____	Total Area within Rights of Way
_____	Street Names
_____	Bearings and Dimensions of all Lots, parcels, roads, and subdivision boundaries.
_____	Location, width, and use of all easements.
_____	Location of Original Survey Lines
_____	Location of School District Boundaries
_____	Location of City Limits/ETJ Boundaries
_____	Location of Edwards Aquifer Recharge Zone
_____	Description of Corner Monumentation