

ORDINANCE NO. 051903

AN ORDINANCE OF THE CITY COUNCIL OF NIEDERWALD, TEXAS REPEALING THE APPLICATION OF THE EXEMPTION FROM LOCAL SALES AND USE TAXES ON RECEIPTS FROM THE SALE OF TELECOMMUNICATION SERVICES WITHIN THE CITY OF NIEDERWALD, TEXAS AS PROVIDED IN SECTION § 321.210(b), TAX CODE, V.A.T.C.S.; IMPOSING A LOCAL SALES AND USE TAX ON THE RECEIPTS FROM THE SALE OF TELECOMMUNICATIONS SERVICES WITHIN THE CITY OF NIEDERWALD, TEXAS; PROVIDING FOR NOTIFICATION TO THE COMPTROLLER OF THE STATE OF TEXAS; PROVIDING THAT NO SUCH TAX PROVIDED FOR HEREUNDER SHALL SERVE AS AN OFFSET TO OR TO REDUCE ANY AMOUNT PAYABLE BY ANY PROVIDER OF TELECOMMUNICATIONS SERVICES PURSUANT TO ANY FRANCHISE, STREET USE ORDINANCE, ORDINANCE PROVISION, STATUTE OR ANY OTHER IMPOSITION OF THE CITY OF NIEDERWALD, TEXAS; MAKING THIS ORDINANCE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 19, 2003, the majority of the qualified voters of the City of Niederwald, Texas (the "City") voted to adopt a local sales and use tax for the benefit of the City in accordance with the former Article 1066c, V.A.T.C.S., the Local sales and Use Tax Act, currently § 321.101, Tax Code, V.A.T.C.S.; and

WHEREAS, Section 321.210(a), Tax Code (Local Taxation), V.A.T.C.S., exempts from the local sales and use tax the taxation of receipts from the sale of telecommunications services within the City; and

WHEREAS, Section 321.210(b), Tax Code (Local Taxation), V.A.T.C.S., allows the City to repeal the application of the exemption from local sales and use taxes on receipts from the sale of telecommunications services within the City; and

WHEREAS, the repeal of the application of the exemption would allow the City to impose a sales and use tax on the receipts from the sale of telecommunications services within the City; and

WHEREAS, the City Council finds that the repeal of the application of the exemption and the imposition of a sales and use tax on the receipts from the sale of telecommunications within the City is in the best interests of the citizens of the City.

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

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. (a) A tax is hereby authorized and imposed on all receipts from the sale of telecommunications services within the City of Niederwald, Texas, as is provided for by State law.

(b) The application of the exemption provided for in § 321.210(a), Tax Code, V.A.T.C.S., is hereby repealed by the City as authorized by Section 321.210(b) thereof.

(c) The rate of tax imposed by this section shall be the same as the rate imposed by the City for all other local sales and use taxes as authorized by the legislature of the State of Texas.

(d) The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered or Certified Mail a copy of this Ordinance along with a copy of the minutes of the City Council's vote on this Ordinance.

Section 3. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City and this Ordinance shall not operate to repeal or affect any of such other ordinances. The tax provided for hereunder shall not serve as an offset to, be in lieu of or in any way reduce any amount payable to the City pursuant to any franchise, street use ordinance, ordinance provision, statute or, without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

Section 4. This Ordinance is to be liberally construed to achieve its remedial purposes.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. This Ordinance shall become effective from and after its passage as provided by law, and it is accordingly so ordained.

PASSED AND APPROVED this 19th day of May, 2003.

Shirley Whisenant

Hon. Shirley Whisenant, Mayor
City of Niederwald, Texas

ATTEST:

Angie Schulze

Angie Schulze, City Secretary
City of Niederwald, Texas

