

ORDINANCE NO. 052002-B

AN ORDINANCE PROVIDING FOR THE REGULATION OF JUNK DEALERS AND AUTOMOBILE WRECKING AND SALVAGE YARDS; PROVIDING FOR A COMPLIANCE DATE FOR EXISTING JUNKYARDS, AND AUTOMOBILE WRECKING AND SALVAGE YARDS; PROVIDING FOR PENALTIES; PROVIDING FOR A REPEALER AND SEVERABILITY CLAUSE.

WHEREAS, the City of Niederwald is a Type A general-law municipality; and

WHEREAS, a Type A general-law municipality may adopt ordinances for the good government, peace or order of the municipality; and

WHEREAS, the City of Niederwald desires to regulate junk dealers and automobile wrecking and salvage yards.

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

Section 1.01 Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automotive wrecking and salvage yard means any lot or tract of land whereupon three or more discarded, abandoned, junked, wrecked or worn-out automotive vehicles, including but not limited to autos, trucks, tractor-trailers, farm equipment, tractors and buses, are kept or stored for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking such automotive vehicles to extract there from parts, components or accessories for sale or for use in an automotive repair or rebuilding business.

Junk means scrap iron, tin, brass, copper, lead, zinc and all metallic substances, except precious metals, handled, purchased, received or offered for sale by dealers in junk, and shall mean and include secondhand plumbing and electrical fixtures, wires, globes, brass pipe, lead pipe and pipe of other metals or materials, melted metals of any kind, such parts of machinery or machines that may be identified as such, dilapidated or discarded manufactured homes, mobile homes, recreational vehicles, or travel trailers, any fixture pertaining to a residence, business house or other house of any kind, abandoned automobile hulls and bodies, abandoned hulls and bodies of any type watercraft, or any parts or automobile or watercraft accessories, including horns, prestolite tanks, tires and all detached and detachable parts of any automobile, watercraft, bicycle, motorcycle or motor vehicle of any kind or of any vehicle of any kind, hydrants, faucets, lawn hose, lawn sprinklers, gas fixtures, fittings and appliances, garden tools, mechanical tools of every description, harness, rags, rubber, rope, bottles and utensils of every description. This enumeration of articles shall not be held to exclude other articles that may be reasonably included under the general definition of junk, when given its usual trade meaning.

Junk dealer means any person engaged in collecting, storing, handling, disposing or selling any of the articles defined as junk, and all persons engaged in the buying and selling of such goods, wares and merchandise, or any person owning or operating a junkyard.

Junkyard means an establishment or place of business maintained, used or operated for storing, keeping, buying or selling junk, for processing scrap metal, or for maintaining or operating an automobile graveyard.

Person means any individual, corporation, partnership, association, joint venture, company, or any other legal entity.

Watercraft wrecking and salvage yard means any lot or tract of land whereupon three or more discarded, abandoned, junked, wrecked or worn-out watercraft including but not limited to power boats, sailboats, yachts, personal watercraft, john boats, or other manner of watercraft, are kept or stored for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking such watercraft to extract there from parts, components or accessories for sale or for use in a watercraft repair or rebuilding business.

Section 1.02 Record of purchases.

(a) Each junk dealer, dealer in secondhand material, owner or operator of an automotive wrecking and salvage yard, or person who shall purchase any kind of junk or secondhand material shall keep in a well-bound book an accurate daily record of each article purchased, when purchased, and the amount paid by the dealer for each of such articles, and also an accurate description of the person selling the article, giving the person's name, address, sex, age, driver's license number or identification card number, and the license plate number of the vehicle, if any, in which the junk was delivered or was obtained.

(b) The book or record shall be accessible at all times to the City of Niederwald or its designee.

Section 1.03 Transactions with Minors.

No person owning or operating any junkyard or automobile wrecking and salvage yard, and no person employed at such place, shall receive or purchase used vehicles or parts, accessories or junk thereof from any person under the age of 18 years, unless upon the duly acknowledged and written consent of the parent or guardian of such person. Written consent shall be preserved by the owner of the place of business for a period of not less than one (1) year, and shall be subject to inspection by the City of Niederwald or its designee.

Section 1.04 Access to Premises for Purpose of Inspection.

All persons having the care, custody or control of any junkyard, automobile wrecking and salvage yard, or watercraft wrecking and salvage yard, during regular days and hours of business, allow any representative of the City of Niederwald to examine the premises and all articles of tangible personal property

upon the premises, for the purpose of ascertaining compliance with all requirements of this Ordinance.

Section 1.05 Sanitation; Stacking Materials.

Every junkyard or scrap yard within the City of Niederwald shall be kept and maintained in a clean and sanitary condition, so that it will not attract rodents or insects injurious to the public health. No scrap or junk automobiles or other scrap or junk materials shall be stacked, stored or piled to a height in excess of six feet, except when such stacking, storing or piling is necessary incident to the immediate hauling or immediate removal of materials, and then only during the time necessary for such hauling and removing, or in any manner protrude above the fence or enclosure required in this Ordinance.

Section 1.06 License Required; Application; Location of Business.

(a) Any person desiring to exercise, carry on or engage in the business or operation of a junkyard, automobile or watercraft wrecking and salvage yard shall file a written application for a license with the City of Niederwald stating the location of the business and describing the business, and stating the name and address of the owner or operator of the business and the name and permanent address of the applicant. Such application shall be accompanied by a written statement and a diagram stating that the location of the business is not within 300 feet of an established residence.

(b) No junkyard or automobile or watercraft wrecking yard shall hereafter be established within 300 feet of any established residence.

Section 1.07 License Fee.

The fee for a license required by this Ordinance shall be \$200.00. Such fee shall be paid prior to issuance of the initial license to an applicant. Upon renewal of such license each year thereafter, a fee of \$100.00 shall be required.

Section 1.08 Expiration of License.

Every license issued under this Ordinance shall expire at midnight on December 31 of the current year.

Section 1.09 Granting or Denial of License.

Upon receipt of an application for a license or renewal under this Ordinance, the City of Niederwald, or its duly appointed agent, shall require an investigation by the City's designee to determine if the applicant has met the requirements of this Ordinance and any other ordinance of the City or law of the state which may be applicable to the operation covered by the application, and, upon a determination thereof, shall approve or reject the application within 30 days after it is filed.

Section 1.10 Notice of Denial of License; Appeals.

Upon the rejection of an application for a license or renewal of a license under this Ordinance, the City of Niederwald shall give notice thereof to the applicant by mailing a notice of such rejection to the address stated in the application. Any applicant receiving such notice shall have 15 days from the date of the postmark thereon to appeal such rejection to the City Council, by filing written notice of such appeal with the City Secretary. Upon receipt of such written notice, the council shall investigate the grounds for rejection of the application and may, in its discretion, sustain or overrule such rejection. The City Council's action shall be final.

Section 1.11 Issuance of License.

Upon the approval of an application for a license under this Ordinance, the City of Niederwald shall issue the license to the applicant, upon payment of the fee prescribed by this Ordinance.

Section 1.12 Revocation of License.

Conviction of any person licensed under the provisions of this Ordinance for violating any of the provisions of this Ordinance, or applicable provisions of the state law or city ordinances, rules or regulations shall be sufficient cause for the cancellation or revocation of the license, within the discretion of the City Council.

Section 1.13 Display of License.

Each holder of a license issued under the provisions of this Ordinance shall at all times cause the license to be posted in a conspicuous place on the premises described therein for such period of time as such license may remain in full force and effect. No person shall post such license upon any property or premises other than those described in the application therefore.

Section 1.14 Change of Location of Business; Transfer of License.

No licensee under the provisions of this Ordinance shall remove his place of business from the designated place described in his application until a written permit authorizing such removal has been secured from the City of Niederwald or its duly appointed agent. A license issued under this Ordinance may not be transferred to a new owner or person not named as owner on the application for the license or the issued license.

Section 1.15 Stock to be Arranged so as to Allow Access by Enforcement Officers.

All automotive or watercraft vehicles, parts and other materials located in or on the premises of any junkyard or automotive or watercraft wrecking and salvage yard in the City shall be so arranged to allow reasonable access to and inspection of the premises by authorized officials of the City.

Section 1.16 Enclosure Required.

(a) Every automobile or watercraft wrecking yard and junkyard shall be enclosed by a continuous fence or wall on all sides thereof, which fence or wall shall conform to the requirements of this Ordinance.

(b) The display of, work upon or storage of any used automobile, vehicle or watercraft, its parts or accessories, or junk there from outside of or above the enclosure required in this Ordinance is prohibited.

Section 1.17 General Construction and Material Requirements.

(a) The fence or wall required by this Ordinance shall be of such construction as is in conformity with the City's building code and constructed in a workmanlike manner.

(b) The fence or wall required by this Ordinance shall completely surround and enclose every junkyard or automotive or watercraft wrecking and salvage yard.

(c) The fence or wall shall be not less than eight feet in height and be composed of opaque materials painted in a natural earth-tone color which obscure the outside view. Such materials must be in accordance with specifications set forth in this Ordinance. No sign may be placed on the surface of the fence other than a sign indicating the name of the automotive or watercraft wrecking and salvage yard or junkyard.

(d) The fence or wall required by this Ordinance shall not be located within 50 feet of the right-of-way of a public street, state highway or alley.

(e) The opaque portions of every fence or wall referred to in this Ordinance shall be constructed in such a fashion as to be in conformity with the building code and in a workmanlike manner, and may be constructed of the following materials:

(1) Wood boards, each measuring not less than one inch thick and four inches wide, of redwood, cedar, fir, pine or combinations thereof in any alternating sequence.

(2) Chain link fence, with wood or metal strips run through all links thereof, fully opaque to outside view, such strips to project neither above nor below the top or bottom of the fence proper.

(3) Masonry, concrete blocks or brick, on foundations equivalent to outside wall specifications, less live load, required by the city building code.

(4) Any combination of the materials described in subsections (e)(1) to (e)(3) of this section, so long as any given side of the enclosure is altogether of wood construction, or altogether of concrete block, or of brick, or of masonry construction, or altogether of chain link fence strip construction, except for any wall or door of any enclosed building utilized in accordance with section 1.18.

(f) Any replacement or repair to a fence shall be constructed in accordance with this Ordinance.

Section 1.18 Use of Building Walls and Doors as Part of Enclosure.

One or more sides of the opaque enclosure required by section 1.16 may consist, in whole or in part, of any wall or door of any completely enclosed building on the premises, so long as any such wall is not less than eight feet in height, measured from the bottom edge thereof, and is of such construction as is prescribed in this Ordinance.

Section 1.19 Maximum Clearance Between Ground and Bottom Edge.

The clearance between the ground and the bottom edge of any fence, wall, gate or door required by this Ordinance shall not exceed three inches.

Section 1.20 Construction of Gates and Doors.

(a) Any opening in a fence or wall required by this Ordinance shall be fitted with a gate or door equipped with at least on key lock, or a combination padlock, or sliding bar, operable only from inside the enclosure, located so as to lock the gate or door completely when not in use. All gates hung in any such enclosed building shall, when fully closed, entirely fill the openings in which such gates are hung.

(b) All gates and doors hung on the opaque portions of a wall or fence required by this Ordinance, except those hung in the wall of an enclosed building, shall be not less than six feet in height, measured from the bottom edge thereof, and shall be of the same construction as all, or part if a construction combination is used, of the side of such enclosure containing the gate or door. Gates or doors in concrete block, brick or masonry walls may be of wood board, marine plywood construction or metal.

Section 1.21 Gates and Doors to be Closed Except During Business Hours.

Gates and doors in such fence or wall shall remain closed at all times except during business hours.

Section 1.22 Sanitation and Maintenance.

Any person granted a license as provided for in this Ordinance shall keep the premises used in the operation and maintenance of that business in a neat and orderly condition. All fences which are required, together with all their supports, braces, guys, and anchors, shall be kept in repair and, unless of galvanized or non-corroding metal, shall be thoroughly painted at least once every two years.

Section 1.23 Removal of Flammable Liquid From Vehicles.

Before any junked, wrecked or abandoned vehicle or watercraft may be placed, kept or stored in any junkyard or automotive wrecking and salvage yard, all fuel tanks must be removed and all gasoline and other flammable liquids shall be completely drained and removed from the vehicle.

Section 1.24 Drainage.

Any portion of a lot or tract of land used in the operation of a junkyard of automotive or watercraft wrecking and salvage yard must have appropriate drainage to prevent the accumulation of water.

Section 1.25 Location of Yard.

(a) A junkyard or automotive wrecking and salvage yard may not be established within three hundred feet (300') of an existing church, school or residence, measured from the property line of the lot or tract on which the church, school or residence is situated which is closest to the property line of the lot or tract on which junkyard or automotive wrecking and salvage yard is situated, except in the case where the residence and junkyard or automotive wrecking and salvage yard are owned by the same person.

(b) A junkyard or automotive wrecking and salvage yard may not be established in an area or zone of the City of Niederwald that is not zoned to allow such as use of the lot or tract on which the junkyard or automotive or watercraft wrecking and salvage yard is situated.

Section 1.26 Compliance.

Each person owning or operating any existing junkyard, automobile wrecking and salvage yard, or watercraft wrecking and salvage yard within the corporate limits of the City of Niederwald on the date of enactment of this Ordinance shall comply with all provisions of this Ordinance, unless otherwise excepted by the terms of this Ordinance, on or before November 20, 2002.

Section 1.27 Penalty.

(a) Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued or permitted. Upon conviction of any such violation, such person shall be punished by a fine not exceeding \$2,000.00 for violation of any provision of this Ordinance that governs or regulates fire safety, zoning, or public health or sanitation, including dumping or refuse. The violation of any other provision of this Ordinance shall be punishable by a fine not exceeding \$500.00.

(b) The imposition of any penalties prescribed in this Ordinance shall not preclude the City Attorney from instituting an action or proceeding to enjoin, prevent or discontinue an unlawful operation of a junkyard or automotive wrecking and salvage yard or to restrain, correct or abate a violation of this Ordinance or prevent any illegal act, conduct, business or use in or about any premises.

Section 1.28 Repealer and Severability.

(a) All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.


(b) The invalidity of any section or provision of this Ordinance shall not invalidate other sections of provisions thereof.

READ, APPROVED and ADOPTED on this the 20th day of
May, 2002.

EFFECTIVE DATE: May 23, 2002


HONORABLE RICKIE ADKINS, Mayor

ATTEST:


City Secretary

