

ORDINANCE NO. 2022/205

AN ORDINANCE AMENDING ORDINANCE NO. 012605-A, AS AMENDED, PROVIDING FOR VARIOUS AMENDMENTS TO THE SUBDIVISION REGULATIONS OF THE CITY OF NIEDERWALD; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Niederwald desires to amend Ordinance No. 012605-A, as previously amended, in accordance with and as authorized by Chapter 212 of the Texas Local Government Code; Now Therefore,

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

That "Section 12. Standards and Specifications" of Ordinance No. 012605-A is hereby amended to revise street design "Design and Construction Standards" to comply with City of Niederwald Engineering Standards and latest TxDOT Pavement Manual and TxDOT specifications, to read as follows:

That Section 12 of Ordinance No. 012605-A is hereby amended to read as follows:

I.

Section 12. Standards and Specifications

No preliminary or final plat shall be approved by the Council, and no completed improvements shall be accepted by the Council unless they conform to the following standards and specification:

A. General

- 1. Conformity with Regulations.** The subdivision shall conform to any Master Plans, Codes, Regulations, Ordinances and Engineering Design Standards of the City.
- 2. Conformity with the City of Niederwald Zoning Ordinance.** For subdivisions or portions of subdivisions inside the corporate limits of the City of Niederwald, the development standards and specifications of the respective zoning districts covering that subdivision or portion thereof shall supersede any conflicting standards in this Subdivision Ordinance.
- 3. Provision for Future Subdivisions.** If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets.

4. **Reserve Strips Prohibited.** There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.
5. **Driveways.** Each lot shall have a separate driveway.
6. **Housing.** All housing shall comply with the following standards:
 1. The structure shall be secured on a permanent foundation as defined in this ordinance or other applicable law.
 2. The main roof shall be pitched, rather than flat.
 3. The house shall appear to face the street and have a gabled entry or other such break in the façade of equivalent proportions.
 4. The exterior walls shall look like wood or masonry, regardless of the actual composition.
 5. The foundation shall form a complete enclosure under exterior walls.
 6. Size shall be consistent with other houses in the neighborhood.

7. **Conformity with Flood Damage Prevention Ordinance.** The subdivision shall conform to the Flood Damage Prevention Ordinance of the City. A subdivider that is required by the Flood Damage Prevention Ordinance to submit a development permit application shall pay to the City of Niederwald a fee of \$750.00 for review of the development permit application. Said fee must accompany the application, and the application shall be considered incomplete until said development review fee is paid. Said fee is in addition to any other fee that may be required by this or any other ordinance of the City of Niederwald.

B. Streets

1. **Street Layout.** Adequate streets shall be provided by the subdivider, and the arrangement, character, extent, width, grade, and location of each shall conform to the Engineering Design Standards and all other specifications of the City. Proposed streets shall be considered in their relation to existing and other planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood. Trees which are required to be shown on the preliminary plat shall be avoided whenever possible in the construction of streets.
2. **Relation to Adjoining Street System.** Where necessary to the neighboring pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.
3. **Projection of Streets.** Where adjoining areas are not subdivided the

arrangement of streets in the subdivision shall make provisions for the proper projection of streets into such unsubdivided areas.

4. **Street Jogs.** Street jogs with centerline offsets of less than one hundred twenty-five feet (125') shall be avoided.
5. **Half-Streets of Adjacent Streets.** In the case of local or collector streets, no new half-streets shall be platted.
6. **Street Intersections.** Street intersections shall be at right angles wherever practicable, giving due regard to terrain and topography. In no case will intersections at angles more acute than eighty degrees (80°) be permitted.
7. **Dead-End Streets.** Dead-end streets shall be prohibited except as short stubs to permit future extension.
8. **Cul-de-sacs.** In general, cul-de-sacs shall not exceed six hundred feet (600') in length. Cul-de-sacs shall conform to the requirements of the City's Engineering Design Standards.
9. **Discouragement of Through Traffic on Local Streets.** Local streets shall be laid out so as to discourage their use by through traffic.
10. **Design and Construction Standards.**
 - a. **General.** Street design proposals shall comply with the City's Engineering Design Standards, this Ordinance, and the latest TxDOT Pavement Manual and TxDOT Specifications. The subdivider shall excavate, fill, grade and pave all streets, including sidewalk areas. No street shall be surfaced until the underground utilities, which are to be installed in the portions of the streets, intended for vehicular traffic have been so installed and inspected. Due to the expansive soils in the area, the City reserves the right to require Lime-Stabilized subgrade or other subgrade stabilization methods as determined by the City Engineer. Developer shall be required to pay the cost of subgrade and pavement testing. Testing shall be done by a qualified geotechnical engineer acceptable to the City. The subgrade shall be compacted to a density of not less than 95% or no more than 100%, as determined by TxDOT Test Method Tex-114-E and TxDOT Test Method Tex-115-E. Lime-treated subgrade shall be compacted to a density of 98% to 100%.
 - b. **Flexible Base.** Flexible Base shall be at least twelve inches (12") of compacted crushed limestone or an acceptable equivalent according to the City's Engineering Design Standards.

c. Surface or Pavement Types. Surfacing shall comply with the City's Engineering Design Standards. Curbing type and/or style shall be determined by the City Engineer.

d. Shoulders. Where shoulders are required, they shall have a base and be sealed or paved with side slopes no steeper than 12:1.

11. Streets on Master Plan. Where a subdivision embraces a street as shown on the Master Plan of the City, such street shall be platted in the location and of the width indicated by the Master Plan. Area-wide roadway needs shall be considered by the subdivider to the degree that such needs may relate to the subject subdivision. Area-wide needs shall be addressed through the procedures specified in Section 8 of this Ordinance.

12. Pavement Widths and Rights-Of-Way.

a. Minimum Requirements (See Table I). Pavement widths and rights-of-way and shoulder width (where required) shall comply with the minimum requirements specified in Table I.

b. Right-of-Way Coverage. As a general requirement, the right-of-way shall include the entire traveled way, including shoulders and vehicles recovery area, walkways, and the parallel and contiguous drainage ways. Extra widths may be required where these facilities cannot reasonably be placed in the minimum widths specified above. The extra width, however, may be in the form of a right-of-way easement, rather than dedication, and may be vacated should final plans demonstrate a lesser width is sufficient to comply with this Ordinance and the City's Engineering Design Standards.

c. Streets Improvements by the Developer. When the City determines that a proposed development will impact the transportation infrastructure of the City, the City will require the Developer to post fiscal security in an amount sufficient to fund all costs of improving the transportation infrastructure adequately to offset the impact of the development. The City will draw on the fiscal security as it sees fit to make the needed improvements. Improvements to be funded in this manner include, but are not limited to, sidewalks, paving and widening existing streets adjacent to the proposed development, or improving off-site streets or intersections as needed to offset the burden of the proposed development on the City. The need for these improvements and the amount of improvements necessary to offset the effects of the development will be determined by the City. The developer will be required to dedicate additional right-of-way adjacent to the proposed development as needed to meet City Standards. Where a county road is adjacent to a proposed

development or planned through a development, the developer must coordinate road improvements within and adjacent to the proposed development with both the City and the County, and obtain City and County approval of the proposed roads, including posting fiscal security for road improvements as described in this paragraph. The City may allow actual construction of road improvements in lieu of fiscal security, under circumstances satisfactory to the City.

13. Drainage

- a. General.** Street drainage shall comply with the City’s Engineering Design Standards.
- b. Standards for Roadside Channels.** Roadside channels shall comply with the City’s Engineering Design Standards.
- c. Fordable Driveways Preferred.** Driveways and Roadways shall comply with the City’s Engineering Design Standards.
- d. Culvert Design and Location.** Driveway culverts shall comply with the City’s Engineering Design Standards.

TABLE I.

MINIMUM REQUIREMENTS FOR STREETS

Road Classification	Lot Frontage	Driveway Spacing	Right-of-Way	Pavement Width
Local Street	125’	25’	50’	30’
Minor Collector	125’	75’	60	40’
Major Collector	150’	100’	70’	48’
Minor Arterial	150’	100’	90’	70’
Major Arterial	150’	100’	120’	100’
Industrial Street	150’	100’	80’	60’

14. **Street Names.** Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

15. **Street Signs.** Street name signs shall be installed by the subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the City and shall conform to the City's Engineering Design Standards and the standards set forth in the Texas Department of Transportation Manual on Uniform Traffic Control Devices for Streets and Highways.

Traffic regulatory signs and safety signs shall be installed by the subdivider in accordance with the Texas Department of Transportation Manual on Uniform Traffic Control Devices for Streets and Highways.

C. **Alleys.** Alleys shall not be permitted.

D. **Utility Installation & Easements.** Each block shall have utility easements reserved for the use of all public utility lines, conduits and equipment. All utilities shall be installed underground except as otherwise provided in the City's Engineering Design Standards.

E. Reserved for future use.

F. **Water Installations.**

1. **Availability of Service.** If the subdivision is not to be served immediately by a water utility, a restriction prohibiting occupancy of any lot until water satisfactory for human consumption is available will be in effect.

2. **Water Supply and Distribution.** All items pertaining to water supply and distribution shall be in accordance with the City's Engineering Design Standards.

3. **Fire Hydrants.** Purchase and installation of fire hydrants within the proposed subdivision shall be at the expense of the subdivider and shall be in accordance with the City's Engineering Design Standards.

4. **Storage and Pumping for Fire Flow.** All items pertaining to storage and pumping for fire flow shall be in accordance with the City's Engineering Design Standards.

G. Sewers.

1. **General.** All subdivisions shall be provided with sewage treatment and disposal services that comply with the City's Engineering Design Standards. Where septic tanks are to be installed, the subdivider shall conduct percolation tests, if required, under the supervision of the Caldwell and/or Hays County Health Department or another duly authorized official in order to determine the adequacy of proposed lot sizes. If a sanitary sewer disposal system is to be installed, the plans for such system must be approved by the Texas Commission on Environmental Quality and the Niederwald City Council, prior to approval of the final plat by the Council.
2. **Availability of Service.** Occupancy of any lot shall be prohibited until a septic tank system is installed in accordance with the rules and regulations of the Caldwell and/or Hays County Health Department and has been inspected and approved by Caldwell and/or Hays County.
3. **Design Criteria.** Each sewage treatment and disposal system shall comply with this Ordinance and the City's Engineering Design Standards.

H. Utility Lines. All utility lines that pass under a street shall be installed before the street is paved. When it is necessary that utility lines pass under the street pavement, they shall be installed to a point at least two (2) feet beyond the edge of the pavement.

I. Monuments. Shall be in compliance with his Ordinance and the City's Engineering Design Standards.

J. Drainage.

1. **General.** The interpretation of the requirements set forth in this section shall be made by the City Engineer, unless specified otherwise by the Council. The subdivider shall be responsible for the conveyance of all storm drainage flowing through or abutting the subject property, including drainage directed to the property by prior development as well as that naturally flowing by reason of topography. Where new drainage improvements are required along the boundary of a subdivision, the owner proposing development shall be responsible for designing and constructing all the required improvements at or before the time of development, including the dedication of all necessary right-of-way or easements necessary to accommodate the improvements. Where the subdivider proposes to subdivide only a portion of the property, only the drainage improvements for the portion

being subdivided shall be required to be installed, except as drainage improvements outside the portion being subdivided are deemed necessary by the City of Niederwald for proper drainage of the portion being subdivided.

2. **Drainage Facilities.** The responsibility of the subdivider shall extend to the provision of adequate off-site drainage facilities and improvements to accommodate the full effects of the development of his property. The subdivider will stand the full cost of acquiring said property rights and constructing the off-site improvements and facilities. This does not relieve the subdivider of the responsibility for providing storm water detention on-site.
3. **Design Criteria.** Shall be in compliance with this Ordinance and the City's Engineering Design Standards. Natural drainage channels shall be preserved whenever possible. Open surface drainage through grass-lined swales shall be preferred over the use of streets and street rights-of-way as the central drainage network. The provisions of Section 12.B.13 shall apply in regard to street drainage. The rate of runoff after construction shall be less than or equal to the site's runoff prior to construction.
4. **Easements.** All drainage easements across private property shall contain the necessary language to permit the required water flow, required maintenance of vegetation by the property owner(s), and permit the necessary access by a City representative for inspection. All easements, twenty-five (25) and one hundred (100) year flood plain boundaries shall be clearly shown on drainage plans and the final plat whenever such plans and plats contain flood plains or floodway segments.

K. Erosion and Sedimentation Control.

1. **Purpose.** The purpose of controlling erosion and sedimentation during the construction stages in a subdivision are to minimize nuisances on adjacent properties, avoid siltation and water quality degradation of streams, and preserve the natural and traditional character of watercourses running through the area.
2. **Temporary Erosion and Sedimentation Control, Required Program.** The developer shall be required to submit plans for and execute a program of erosion and sedimentation control during the construction period for all parts of the proposed project, and adjacent lands, including easements and right-of-ways. The control plans must be approved by the City Engineer, and must comply with this Ordinance and the City's Engineering Design Standards.

3. **Permanent Water Quality Control, Required Program.** For all development within the City, the Developer shall be required to provide permanent water quality controls adequate to provide for mitigation of non-point source pollution. The control plans must be approved by the City Engineer, and must comply with this Ordinance and the City' Engineering Design Standards.
 4. **Drainage Channel Stabilization.** All new drainage channels on the site shall be designed to minimize potential erosion. All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading. All culverts shall be constructed with concrete riprap around each opening. All drainage channels must comply with this Ordinance and the City's Engineering Design Standards.
- L. **Blocks.** Block length shall not exceed fifteen hundred feet (1,500'), nor be less than three hundred feet (300').
- M. **Lots.**
1. **Minimum Lot Size.** All lots shall consist of a minimum area of one (1) acre for an unsewered lot and one-half (1/2) acre for a sewered lot. In the case of irregularly shaped lots, the minimum width shall be measured at the front of the building setback line.
 2. **Unsewered Lots.**
 - a. All lots in a subdivision shall be laid out in such a manner as to facilitate connection to a sanitary sewer system in the future in a logical and orderly fashion.
 - b. Commission review and approval of site suitability occur prior to or concurrently with preliminary plat review and approval.
 - c. Approval of a subdivision plat under these criteria does not mean that every lot is suitable for a conventional septic tank-soil absorption system. The Council may require, on the basis of recommendation by the Commission, that a plat note or restrictive covenant be attached to the plat and recorded with the County Clerk specifying that lots within the subdivision may not be suitable for conventional septic tank-soil absorption systems.
 - d. No water connection will be made for any lot without installation of approved septic or soil absorption system.
 - e. No property in the Niederwald area lies within the Edwards

Aquifer Recharge Zone.

3. **Flag Lots.** Flag-shaped lots shall be prohibited except in unique circumstances where prior ownership boundaries require such a configuration. City Council approval shall be required.
4. **Frontage.** Each lot shall front upon a public street. Lots of irregular shape shall not be allowed unless they have a street frontage of at least one hundred fifty feet (150') for an unsewered lot and one hundred twenty five feet (125') for a sewerred lot. Lots on a cul-de-sac street shall have a minimum street frontage of sixty feet (60'). Lots of irregular shape shall be discouraged.
5. **Side Lot Lines.** Side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines.
6. **Minimum Setback Lines.** Minimum front building setback lines shall be required of at least forty feet (40'). Corner lots shall have at least the minimum forty feet (40').
7. **Rear Yards.** Minimum rear yard depths of forty feet (40') shall be required.
8. **Side Yards.** Minimum side yard width of twenty feet (20') shall be required on each side of interior lots and on the interior side of corner lots.
9. **Extra Depth and Width in Certain Cases.** Where a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of the property, and where no street is provided at the rear of such lot, additional depth shall be required by the Council. In no case shall a depth in excess of fifty feet (50') be required. Where a lot sides to any of the above, additional width shall be required by the Council, but in no event shall a width in excess of fifty feet (50') be required.
10. **Flood Plain Setback Lines.** Where a lot is adjacent to a natural watercourse or drainage way (determination regarding what is a natural drainage way shall be made by the city, however, if the drainage way serves an area of sixty-four (64) acres or more, it shall be considered a natural drainage way), a minimum building setback line shall be established along the one hundred (100) year flood plain boundary on each such lot. The building setback shall be fifty feet (50') from the 100-year floodplain for drainage ways serving areas of two hundred (200) acres or less and one hundred feet (100') for drainage ways

serving over two hundred (200) acres. The subdivider shall demonstrate that each lot with such a setback can support the proposed use of the lot while leaving the floodplain and setback in a natural state. Within the flood plain area and setback, construction of residential structures and other structures intended for human occupancy shall be prohibited. Other construction related to subdivision development, including streets, utilities, and fill material, shall be minimized within the flood plain setback area. The City may prohibit the construction of streets, ponds, or other improvements within the floodplain and setback. Clearing or removal of natural ground cover and trees within the flood plain setback area of a natural watercourse shall be minimized, and may be prohibited by the city. The subdivider shall clearly show on his development plans the locations of any trees with a trunk diameter of ten inches (10") or more, measured at a height of four feet from the ground. The City will require replacement of all such trees removed at a rate of two times the caliper inches of tree removed. No tree of eighteen inches (18") diameter or more shall be removed.

11. **Setbacks Shown on Plat.** The minimum setback lines, minimum lot depths, side yard widths, and other such features as required by the Council and by this Ordinance shall be clearly indicated on the final plat, either by delineation or by statement, and in deed restrictions and private covenants that must accompany the plat.
- N. **Easements.** When the Council finds that easements in areas adjoining a proposed subdivision are necessary to provide drainage thereof, or to serve such subdivision with utilities, the subdivider shall obtain such easements.
- O. **Parks.** A space equivalent to five percent (5%) of the total property to be subdivided shall be dedicated in fee simple to the City for recreational or conservational use. The developer shall show on the preliminary plat the land that is suggested for such public dedication. The land must be suitable for development of a public park. If it is recommended by the Commission to the Council, that the proposed site is not suitable, the developer will be given prompt notice of such determination and may offer cash in lieu of the dedication of land, such amount to be determined as set forth below, or the developer may offer a revision to the preliminary plat and dedicate land that is acceptable to the Council. Alternatively, the developer may appeal the recommendation of the Commission to the Council, who shall exercise final jurisdiction over all such appeals. In lieu of dedication of land within the subdivision for parks and conservation purposes the developer may, subject to the approval and acceptance by the Council, pay cash in lieu of dedication of parkland. The cash contribution shall be determined in accordance with the following schedule:

(a) Classification Residential: Two hundred fifty dollars (\$250.00)
for each single family lot in the subdivision.

(b) Classification Commercial: Five percent (5%) of the raw land value of the area. Raw land value shall be established by a State of Texas registered appraiser at the expense of the developer/owner.

(c) Classification Public: Churches, schools and public buildings are exempt and shall not be required to pay cash or dedication land for parks and conservation as a condition to plat approval.

In the event a developer elects to pay cash in lieu of dedication of land for parks and conservation, the cash shall be paid at the time the subdivision plat is approved.

All cash paid in lieu of parkland dedication shall be deposited by the City into a special park fund account and shall be spent by the City on the acquisition of parklands or the improvement of park land/or facilities within the City or ETJ within five (5) years after receipt of such funds by the City. The funds shall not be spent for any other purposes. If the funds are not spent within five (5) years the funds shall be paid to the owners of lots in the subdivision on an equitable basis.

No area or facility shall be dedicated for such public purposes unless approved and accepted by the Council.

P. Responsibility for Payment of Installation Costs.

1. Any subdivision requiring services to be provided by the City shall obtain advance approval of such extension of services from the Council.
2. In no event shall the City incur any expenses within any subdivision.

II.

That 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.

III.

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

IV.

That this Ordinance shall become effective upon its passage and publication as required by law.

READ, PASSED AND APPROVED this 5TH day of December, 2022.

Reynell Smith

HON. REYNELL SMITH, MAYOR

ATTEST:

Richard L. Crandall

CITY SECRETARY

