

Number 112398 A

ARTICLE II: DEFINITIONS

Section 3. General Terms: Words used in this ordinance and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this ordinance the following words and phrases shall have the meaning respectively ascribed to them by this article:

ACCESSORY BUILDING: A subordinate building, not a mobile home except by special permit, detached from the main building, without separate utilities, and not used for commercial purpose other than a home occupation unless in a commercial or industrial district and not for habitation unless otherwise specified as a permitted use in a particular district. It may be used as a non-commercial workshop, a washroom, recreation room, storage room for domestic storage belonging to the owner or tenant only, or a space for one or more boats or light-duty vehicles owned by the owner, tenant or guests. In districts other than residential, an accessory building is a subordinate building the use of which is incidental to and used only in conjunction with the main building.

ACCESSORY STRUCTURE: A structure, including an accessory building, the use of which is customarily incidental and subordinate to that of the main building on the same lot, such as a swimming pool, sports court, greenhouse, woodshed, toolshed and the like.

ACCESSORY USE: A use customarily incidental and subordinate to the primary use of the main building or to the primary use of the premises.

APARTMENT: A suite of rooms located in an apartment house and arranged, designed or occupied as a place of residence by a single family.

APARTMENT HOUSE: Any building thereof, which is designed, built rented, leased, or let to be occupied as a home or place of residence by two or more families living in independent dwelling units.

BUILDING: Any roofed structure designed or used for the housing or enclosure of persons, animals or property.

BUILDING, MAIN, PRIMARY OR PRINCIPAL: A building in which is conducted the primary use of the lot on which it is situated.

CITY: The City of Niederwald, Texas.

COUNCIL: The City Council of Niederwald, Texas.

DISTRICT: A section of the City of Niederwald for which the regulations governing the uses of and development standards for buildings or lots are uniform.

DWELLING: A building designed and having facilities for year-round human habitation.

EDWARDS AQUIFER RECHARGE ZONE: That area, as delineated on the most recent edition of maps in the office of the Executive Director of the Texas Department of Water Resources, in which the Edwards and associated limestone formations outcrop and including proximate areas that carry stormwater runoff into the reaches of creek beds that recharge the Edwards Aquifer.

FAMILY: An individual, or two or more persons related by blood, marriage, or adoption; or a group of not to exceed four (4) persons not any of whom are related by blood, marriage, or adoption occupying the premises and living as a single nonprofit housekeeping unit.

HOME OCCUPATION: An occupation customarily carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes. A proposed home occupation must comply with all the following specific criteria:

1. The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a dwelling;
2. Such uses shall be incidental and secondary to the use of the premises for residential purposes and shall not utilize an area exceeding twenty percent (20%) of the combined gross floor area of the dwelling unit and accessory building if used for the home occupation.
3. The occupation use shall be carried on by a member or members of the family residing on the premises and not more than one (1) nonresident assistant;
4. The proprietor shall provide adequate off-street parking on the property where the use is located;
5. The occupation use shall not create a nuisance as defined in this ordinance and shall comply with all the other general criteria for special uses.

LOT: A designated parcel, tract or area of land, established by a plat or otherwise as permitted by law, to be used, developed or built upon as a unit.

MANUFACTURED BUILDING: A manufactured building, including a mobile home, a combination of modules, or a module for combination with other elements to form a building, not a mobile home, which has been mass-produced in a factory and designed and constructed for transportation to a site for installation and use on a permanent foundation when connected to required utilities at that site. All manufactured buildings must either meet the standards set by the City of Niederwald building, plumbing, electrical, and energy costs as determined by an onsite inspection by the City's inspector or be certified as meeting the codes and standards established by either the Texas Department of Labor and Standards of the U.S. Department of Housing and Urban Development (HUD), as appropriate.

MANUFACTURED HOUSING: A manufactured building, including a mobile home, or portion of a building designed for long-term residential use. Manufactured housing shall

be located within a Manufactured Housing district and comply with the following standards:

1. The structure shall be secured on a permanent foundation as defined in this ordinance.
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.

MOBILE HOME: Manufactured housing built on a chassis with axles and wheels.

NONCOMPLYING STRUCTURE: Any structure lawfully existing on the effective date of this ordinance, or any amendments hereto, that is designed for a use that is permitted in the district where the structure is located, but which does not comply with one or more of the dimensional regulations of this ordinance, such as limitations on areas, lot coverage, height, parking area and locations on lot, shall be designated a noncomplying structure.

NONCONFORMING STRUCTURE: Any structure lawfully existing on the effective date of this ordinance, or any amendment hereto, that is designed for a use not permitted in the district where the structure is located shall be designated a nonconforming structure.

NUISANCE: Any substance or disturbance that, if extended over a period of time or repeated at periodic intervals, would endanger the health, safety, morals, or general welfare or otherwise diminish the quality of the utility afforded a person living, working, or otherwise in free use, possession, or enjoyment of his or her property, including but not limited to:

1. Noise
2. Dust
3. Smoke
4. Fumes
5. Odor
6. Glare
7. Flashes
8. Heat
9. Electronic or atomic radiation
10. Effluent
11. Vibration
12. Shock waves
13. Gases
14. Debris

15. Hazardous materials

16. Junk or abandoned vehicles

PARKING SPACE: An area designated for the parking of one light-duty vehicle.

RESTAURANT: An establishment whose primary business is selling food for consumption at tables on the premises or for take-out.

SETBACK: The minimum distance required between a structure and the front, side or rear boundary line of the parcel of land on which the structure is located. For parcels adjacent to an alley, the setback line may be measured from the centerline of the alley.

SITE PLAN: A development plan of one or more lots on which is shown the following:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains and waterways;
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices; and
3. Any other information that may be reasonably required in order to determine whether the proposed development complies with the criteria and standards in this ordinance and with the requirement of other City ordinances.

SPECIAL USE: A use not permitted by right and not expressly prohibited that may be authorized by the City Council if the applicant can show to the satisfaction of the Council that the use may be suitable in certain locations in a district if developed and operated under specific conditions and or for a limited period of time.

STRUCTURE: Anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground, and not otherwise defined herein.

SUBDIVISION ORDINANCE: The Subdivision Ordinance of the City of Niederwald, Texas.

YARD: An open, unoccupied space other than a court, on the same lot as a building and which is unobstructed from the ground to the sky and is the minimum horizontal distance from the nearest lot line and the main building or any projections thereof other than roof overhangs.

ARTICLE III. ZONING REGULATIONS

Section 3. Zoning Districts Established.

For the purpose of this Ordinance, the City is hereby divided into the following Districts:

<u>District</u>	<u>Zoning District</u>
<u>Symbol</u>	
R1	Residential-Single Family Site Built
R2	Residential-Duplex
R3	Residential-Multi-family
R4	Residential-Manufactured housing
R5	Residential-Mobile Homes
R6	Residential-Mobile Home Parks (2 year renewal)
R7	Residential-Recreational Vehicle Parks (2 year renewal)
CI	Commercial-Light Industrial
CV	Civic
A	Agricultural
SU	Special Uses (2 year renewal)
SOB	Sexually Oriented Business (2 year renewal)

All land uses in existence at the time of passage of this Ordinance will be classified into the above mentioned Districts. All mixed Residential Commercial uses will be allowed if these uses were in existence at the time of passage of this Ordinance. The definitions of use are as follows:

Residential: R1, R2, R3, R4, R5, R6, R7

R1 (Single Family-Site Built): A detached dwelling unit not a mobile home, on its own lot, and designed and having facilities for year-round human habitation by only one family.

R2 (Duplex): A dwelling not a mobile home, on its own lot, and designed, arranged, or used exclusively for the use and occupancy of two families living independently of each another.

R3 (Multi-family): A suite of rooms located in an apartment house and arranged, designed or occupied as a place of residence by a single family.

R4 (Manufactured Housing): A manufactured building, including a doublewide or larger mobile home, designed for long-term residential use and capable of meeting City Codes or be certified as meeting the codes and standards established by either the Texas Department of Labor and Standards or the U.S. Department of Housing and Urban Development, as appropriate.

R5 (Single Unit Design Mobile Homes): Manufactured housing built on a chassis with axles and wheels, on its own lot and designed and having facilities for year-round human habitation by only one family.

R6 (Mobile Home Park): A development designed as a Mobile Home Park shall meet all requirements set forth by State and Local Governments. The facility so

designed shall be for the explicit purpose of renting or leasing of mobile home sites.

R7 (Recreational Vehicle Park): A development designed as a Recreational Vehicle Park shall meet all requirements set forth by State and Local Governments. The facility so designed shall be for the explicit purpose of renting or leasing of recreational vehicle sites.

Commercial & Light Industrial - CI: This area consists mainly of land occupied by or suitable for the retailing of commercial goods and the furnishing of certain personal services to satisfy most of the daily needs of the neighborhood. This area also provides space for the financial, administrative, and business uses engaged primarily in the processing, fabrication, assembly, treatment, and packaging of finished products and parts, including the incidental storage and distribution of such products.

Civic - CV This area consists of the exempt government properties, park land, city hall, cemeteries, educational facilities, publicly owned recreational facilities, religious assemblies, and public safety facilities, etc.

Agricultural Area - A. This area pertains to pastures and fields.

Special Uses - SU A use not permitted by right and not expressly prohibited that may be authorized by the City Council if the applicant can show to the satisfaction of the Council that the use may be suitable in certain locations in a district if developed and operated under specific conditions and or for a limited period of time. This includes home-operated-business and requires a permit (2 year renewal).

Sexually Oriented Business Area - SOB This area included any sexually oriented business location.

Section 3. Authority for Amendments.

The City Council may from time to time amend, supplement or change by ordinance the boundary of the District or the regulations established.

Section 4. Procedures for Amendment.

Before taking action on any proposed amendment, supplement or change :

- (1) The City Council shall hold public hearings thereon.
- (2) Applications for a change shall be made on forms provided by the City. The Planning Commission shall review all such requests and provide the City Council with their concerns and comments and make sure that the City Council has sufficient information to take action.

- (3) Written notice of all public hearings on proposed changes in classifications shall be sent to all owners of property or to the person rendering the property for Taxes affected by the proposed changes in classification and to all owners of property or to the person rendering the property for Taxes located within 200 feet of any property affected before the tenth day before the hearing date. The notice may be served by depositing the notice, properly addressed and postage prepaid, in the post office. Where property lying within 200 feet of the property proposed to be changed is located in territory which was annexed to the City tax roll, notice to the owners shall be given by publication.

Section 5. Public Hearings on Amendments.

After receipt of the final report from the Staff on any proposed amendment, supplement, or change to this Chapter, a public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of the hearing shall be given by publication one time in a newspaper of general circulation in the City stating the time and place of the hearing, which time shall be not less than 15 days nor more than 20 days from the date of publication. Ordinances relating to changing a Zoning area designation may be approved by the City Council on one reading only, if all other requirements are met, but may be reconsidered upon a majority vote at the next regular meeting after the change was approved if reconsideration is requested by a City Council Member who was absent from the meeting where the vote was taken or who voted on the prevailing side at the previous meeting.

Section 6. Meetings at Hearing on Amendments.

If the City Council deems it feasible and practicable to do so, public hearings provided for in Section 5 be held before the City Council.

Section 7. Protests and Recommendations for Denial of Amendments.

- (1) If a written protest against a proposed zoning area boundary amendment is filed with the office of the City Secretary seven or more days before the time of the public hearing by the City Council, and is duly signed and acknowledged by the owners of 20% or more of the area of lots or land included in the proposed change or by the owners of 20% or more of the land within a 200-foot radius of the boundary of the subject property, including public streets and alleys, the amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the City Council.
- (2) A vote of three-fourths of all the members of the City Council is required to approve an amendment, supplement, or change.
- (3) The City Council may vote on a specific proposed amendment, supplement, or change.

Section 8. Consideration of Previously Denied Zoning Map Amendments.

A request to change the zoning designation for a parcel of property shall not be within one year of the same requested change for all or any portion of the parcel unless the City Council determines that there has been a substantial change in conditions surrounding the parcel since the initial request, and agrees to reconsider the change by a three-fourths vote of the members present and voting.

Section 9. Appeals for Specific Use Permits.

Any person jointly or severally aggrieved by any decision of the City Council on a specific use permit may present to the City Council a statement, duly verified, setting forth that the decision is unjust, in whole or in part, specifying the grounds of injustice. The statement shall be presented to the City Council within 30 days after the final decision of the City Council for notification and calling of a public hearing to hear and act on the appeal.

Section 10. Administrative Cost.

The City Council shall determine and set forth a fee schedule for the purpose of recovering the administrative costs of processing zoning requests and the public hearings called for. The fee shall be paid by the applicant and shall not be designed for restricting an applicant's ability to seek a hearing and/or generate revenue for other than recovery of actual administrative costs incurred by the City.

Section 11. Official Zoning Map.

- (1) The Official Zoning Map of the City shall be kept in the official files of the City Secretary. Certified copies shall be maintained in the office of the City Secretary. The map entitled "Zoning Map of the City of Niederwald, Texas" shall constitute an official part of this Ordinance. The boundary of the District referred to in this Chapter is indicated on the Zoning Map of the City which is adopted and declared to be a part of this Ordinance. All notations, references and other information shown on the Zoning Map are made a part of this Ordinance, and shall be considered as much a part of this Ordinance as if the matters of information it sets forth are all fully contained and described in this Ordinance. The Zoning Map shall bear the title "Zoning Map of the City of Niederwald, Texas", and shall bear the names of the City Council and the date of its adoption. It shall bear the signature of the Mayor, attested by the City Secretary, and the Official Seal of the City. Changes and amendments shall be properly noted and dated. A replica of the map shall be produced upon paper and attached to the transcription of this Ordinance.
- (2) If uncertainties exist about the intended boundaries of the various areas as shown on the Zoning Map, the following rules shall apply:
 - a. All streets, alleys, waterways, railroads, and other rights-of-ways, if not otherwise specifically designated, shall be considered to be in the same zoning area as the property immediately abutting them. Where the designation of a boundary line on the Zoning Map coincides with the location of a street, alley, waterway, railroad, or

other right-of-way, the centerline of the right-of-way shall be construed to be the boundary of the area.

- b. Where the zoning area boundaries do not coincide with the location of streets, alleys, waterways, railroads, or other right-of-way, but do coincide with tract or lot lines, the tract or lot lines shall be construed to be the boundary of the area.
- c. Where, by a determination of the City Council, the boundary line of a zoning area does not coincide with the location of streets, alleys, waterways, railroads, or tract or lot lines, the area boundaries shall be determined by the use of the scale shown on the Zoning Map or reference to the metes and bounds description in the Ordinance which previously zoned the property, as applicable.

Section 12. Enforcement and Remedies.

- (1) **City Council.** This Ordinance shall be administered and enforced by the City Council.
- (2) **Right to enter.** The City Council or any Duly Authorized Person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspection of building or premises necessary in the enforcement of this Ordinance. If the responding party is refused entry, the City Council shall obtain proper judicial authorization.
- (3) **Stop orders.** Whenever any building work is being done contrary to this Ordinance, the City Council or any Duly Authorized Person may order the work stopped by notice in writing, served on the owner or contractor doing the work or causing the work to be done, and any person shall forthwith stop the work until authorized to proceed with the work. Notice shall be given at least three days before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare.
- (4) **Violations.** Any use not specifically permitted in the Zoning Area is prohibited and is a violation of this Ordinance.
- (5) **Additional remedies.** If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this Ordinance or of any other regulation made under the authorities of the City Council, in addition to other remedies, the City Council shall institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to refrain, correct or abate the violation; to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises. Appropriate action or proceedings include termination of utility services (water, gas, electric); revocation of permits, licenses, or bonds; and institution of legal action in courts of competent jurisdiction.

Section 13. Conflicting Ordinances.

It is the intention of the City Council that this Ordinance should supplement existing Ordinances, and any Ordinance, word, phrase, clause, sentence, or section thereof in conflict with this chapter shall remain in full force and effect; however, if this Ordinance shall impose a more restrictive requirement, this Ordinance shall control.

Section 14. Powers.

(1) The City Council may authorize, upon appeal in specific cases, variances from this Chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Chapter will result in unnecessary hardship, and so that the spirit of this Chapter shall be observed and substantial justice done. Variances may be granted to any provision except for the listing of permitted or specific uses and except for procedural requirements. Variances from the strict application of this chapter shall be authorized only when the City Council approves findings of fact in writing, showing that the evidence provided by the proponent demonstrates the following conditions exist:

- a. The variance requested arises from the condition which is unique to the property in question and which is not ordinarily shared by others in the same neighborhood or Zoning Area, and is not created by an action of the property owners or applicant.
- b. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a practical difficulty or unnecessary hardship or inequity upon or for the owner or occupant, as distinguished from a mere inconvenience, if the regulations were literally enforced.
- c. The request for a variance is not based exclusively upon a desire from the owner, occupant, or applicant for increased financial gain from the property, or to reduce an existing financial hardship.
- d. The granting of the variances will not be materially detrimental or injurious to or adversely affect the rights of owners or residents of surrounding property.
- e. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, substantially diminish or impair property values within the neighborhood, or otherwise be opposed to the general spirit and intent of this Chapter.
- f. The variance requested is within the guidelines established by this Subsection.
- g. The degree of variance requested is the minimum amount necessary to meet the needs of the proponent and to meet the conditions of this Subsection.

(2) In hearing and deciding appeals, grant special exceptions for the following:

- a. Interpret the provisions of this Chapter in a way so as to carry out the intent and purpose of this Chapter, as shown on the maps fixing the area, where the street layout actually on the ground varies from the street layout as shown on the maps.
- b. Waive or reduce the parking and loading requirements in an amount not exceeding 33% of the normal requirement in any of the districts for one or more of the following situations., when ever the character or use of the building of parking or loading facilities or where the regulations would impose an unreasonable hardship upon the use of the property, as contrasted with merely granting an advantage or a convenience:
 - 1. Housing specially designed and intended for use by the elderly, disabled, or other occupants typically having a lower expectation of automobile ownership.
 - 2. Adaptive reuse or restoration of an historically or architecturally significant structure.
 - 3. Expansion of a nonprofit, public or social service use on an existing site; and
 - 4. Conversion of a nonconforming use to what would otherwise be a conforming use, except for the parking and loading requirements.
- c. To allow off-site parking where all or part of the minimum number of parking spaces required in Section 114.642 are located within 300 feet on a lot or tract of land that is legally separate from the property containing the principal use served by the parking area, provided that:
 - 1. Both lots or tracts are under the same ownership; or
 - 2. It can be established that one or more uses, applying jointly and concurrently for the special exception, will be sharing a parking area that may be on property that is not under the same ownership as one or more of the uses to be served by the parking, where the shared parking area has a capacity of at least the minimum number of spaces for the use having the greatest minimum requirement, where all uses have their primary need for parking during offsetting periods so that the parking area will be utilized by only one principal use at a time, an where the arrangement is documented through a long-term lease or other written agreement.
- d. Permit the reconstruction of a nonconforming building which has been damaged to the extent of more than 50% of its replacement cost.
- e. If no structural alterations are made, any nonconforming use of a structure or structure and premises in combination may, as a special exception, be changed to another nonconforming use, provided the City Council finds that the proposed

nonconforming use is not more nonconforming in the district than the previous existing nonconforming use.

- f. Permit the City to issue a building permit for expansion of a preexisting nonconforming use that is not in compliance with the future land use Plan Map and/or Zoning Area when the City Council determines that this special exception will not adversely impact water, wastewater, drainage, and street transportation systems, and is in accord with all City Codes and applicable Master Plan Policies, including those pertaining specifically to land use compatibility. Adverse impact means any of the following conditions which can be reasonably expected to result from the proposed development:

1. **Wastewater.** A septic system within 300 feet of an existing sewer line; any use whose proposed connection to a sewer system (wastewater collection and treatment system) which is now at or beyond its capacity as calculated using State Department of Water Resources Standards Design Criteria, including a sewer line or pipe which overflows primarily due to infiltration and inflow; any use which cannot be served adequately without the expenditure of City Funds in excess of the amount paid by the user's capital recovery fees; any use whose plumbing and wastewater system does not conform to City specifications; any use which would create off site any one of the conditions listed in this Subsection.
2. **Water.** Lowering water quantity, quality, or water pressure below the standards established by the master plan, adopted in City Codes, or as determined by applicable Agencies of the State; and water demand on an existing water system which is below established standards (water demand includes that required to adequately fight fires).
3. **Drainage.** Nonconformance to the purposes, interests, or requirements pertaining to flood damage prevention and/or pertaining to drainage and erosion control; creating additional runoff into a drainage system which is inadequate or nonexistent, or cause it to become inadequate in terms of its ability to handle runoff without causing flooding, soil erosion, property damage or hazard to life, or which retains water in any area which by design is not specially allowed by the City to retain water; creating runoff which measurably harms the physical or biological integrity of the Plum Creek Ecosystem.
4. **Transportation.** Creating or increasing an unsafe condition; nonconformance to adopted City Ordinances concerning construction materials and design of roadways or pedestrian ways; generating or attracting daily vehicular traffic which causes a roadway's capacity to be exceeded; creating commercial through truck traffic (other than moving vans and

garbage trucks) on any local residential street, contributing to or creating a road maintenance problem.

Section 15. Appeals.

- (1) Appeals to the City Council may be made by any person aggrieved. The appeal shall be filed with the City Council within 15 days after the original decision appealed from.
- (2) Notice of hearing before the City Council is required as follows:
 - a. The City Council shall hold a Public Hearing on all appeals made to it, and written notice of the Public Hearing shall be sent to the applicant, all persons who are owners of real property lying within 200 feet of the property which the appeal is made, and all other persons deemed by the City Council to be affected thereby.
 - b. The notice shall be given not less than ten days before the date set for the hearing to all the owners who have rendered their property for taxes as the ownership appears on the tax roll. The notice shall be delivered personally or through the U.S. Postal Service.
- (3) The City Council shall forthwith notify in writing the City Building Inspector of each decision, interpretation, special exception and variance granted under this Chapter.

Section 16. Administrative Cost.

The City Council shall determine and set forth a fee schedule for the purpose of recovering the administrative cost of processing requests and the public hearings called for by this division. The fee shall be paid by the applicant and shall not be designed for restricting an applicant's ability to seek a hearing and/or to generate revenue for other than recovery of actual administrative cost incurred by the City.

Section 17. General Enforcement Authority of Municipalities; Penalty.

- (1) The City Council of a Municipality may enforce each rule, ordinance, or police regulation of the Municipality and may punish a violation of a Rule, Ordinance, or Police Regulation.
- (2) A fine or penalty for the violation of a Rule, Ordinance, or Police Regulation may not exceed \$500. However, a fine or penalty for the violation of a Rule, Ordinance, or Police

Regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, may not exceed \$2,000.

- (3) This Section applies to a Municipality regardless of any contrary provision in a Municipal Charter.

A ♦ AGRICULTURAL DISTRICT

Section 18. Purpose.

The A agricultural district is designed to encourage agricultural usage of land that is best suited for that purpose with respect to its natural characteristics, to offer protection to agricultural land within the City from the depreciating effects of objectionable, hazardous, or environmentally disruptive uses, and to prevent untimely scattering of more dense urban development.

Section 19. Permitted Uses.

The uses permitted in the A-agricultural district are as follows:

- (1) Farming, ranching, related activities and accessory uses, including the owner's single-family dwellings.
- (2) Group homes.

Section 20. Specific Uses.

In accordance with Section 2 of this Chapter, specific uses in the A-R Agricultural-Ranch Area are as follows:

- (1) Single-family dwelling and accessory uses that are unrelated to activities in Section 18.

R ♦ RESIDENTIAL DISTRICT

Section 21. Purpose.

The Residential District is established to:

- (1) Recognize that certain areas of the City are suitable for a mixture of single-family dwelling units and mobile homes, and to provide adequate space and site diversification for

residential purposes designed to accommodate the peculiarities and design criteria of mobile homes, along with single-family residences.

- (2) Protect against pollution, environmental hazards and other objectionable influences.
- (3) Provide adequate provisions for vehicular and pedestrian circulation.
- (4) Promote housing densities appropriate to and compatible with existing and proposed public support facilities.
- (5) Promote the most desirable use of land and direction of building development; promote stability of development; protect the character of the area; conserve the value of land and buildings; and protect the City's ad valorem value.

Section 22. Permitted Uses.

The uses permitted in the R-Residential District are as follows:

- (1) 1 mobile home or one single-family residence on each lot.
- (2) Group home.
- (3) Accessory buildings.
- (4) Recreational and commercial facilities designed for exclusive use of the subdivisions occupants.
- (5) A storage building.
- (6) Portable buildings.

Section 23. Specific Uses.

In accordance with Article 6 of this Chapter, Specific Uses in the R-Residential district are as follows:

- (1) Day care center.
- (2) Home occupations.
- (3) Common facilities as the principal use of 1 or more platted lots in a subdivision.

Section 24. Area, Building and Height Requirements.

In the R-Residential districts building and height requirements are as follows:

- (1) Minimum lot area: 1 acre
- (2) Minimum lot frontage: 150 feet

- (3) Minimum depth of front setback: 40 feet
- (4) Minimum depth of rear setback: 40 feet
- (5) Minimum width of side setback: 20 feet
- (6) Maximum building coverage as a percentage of lot area: 40%
- (7) Maximum accessory building coverage as a percentage of rear yard: 30%
- (8) Maximum height of structure: 35 feet or 2 stories, whichever is less.

Section 25. Mobile Home Standards.

The installation, occupancy, and maintenance of Mobile Homes in the R-Residential Districts shall be subject to the following:

- (1) Mobile Homes shall have no outside horizontal dimension less than 14 feet, except for original extensions or subsequent additions containing less than 50% of the total enclosed floor area.
- (2) The exterior siding material, excluding skirting, shall be nonmetallic.
- (3) Mobile Homes shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. A Mobile Home without that certification, but meeting all other requirements, may be accepted as of safe and quality construction provided it meets the following criteria:
 - a. All electrical materials, devices, appliances and electrical equipment are in sound and safe condition. Aluminum conductors are not acceptable.
 - b. All mechanical systems, including space and water heaters, are in sound and safe condition.
 - c. All plumbing, gas piping, and wastewater systems are in sound and safe conditions.
 - d. The unit is in sound and safe structural condition. Uncompressed finish floorings greater than one-eighth inch in thickness beneath loadbearing walls which are fastened in the floor structure are not acceptable. Mobile Homes which have shown signs of fire damage are not acceptable.
 - e. The determination of the acceptance of any non-certified unit shall be made jointly by the Building Inspector and Fire Marshal.
- (4) Mobile Homes shall be installed in accordance with the following criteria:
 - a. The frame shall be supported by and tied to a foundation system capable of safely supporting the loads imposed as determined from the character of the soil. The

minimum acceptable foundation design shall be a series of 8-inch grout-filled concrete block piers spaced no more than 8 feet on center and bearing on 12-inch by 12-inch solid concrete footings. A tiedown and anchoring system separate and apart from the foundation ties shall be provided as recommended by the manufacturer, if different from the foundation ties.

- b. Axle and hitch assemblies shall be removed at the time of placement on the foundation.
 - c. Each mobile home shall be totally skirted with non-corrugated metal, masonry, pressure-treated wood, or other nondegradable material which is compatible with the design and exterior materials of the primary structure.
 - d. Electrical power supply shall be made from a meter installation on the mobile home or from a permanent meter pedestal.
- (5) Driveways and off-street parking shall be provided in accordance with the requirements for single-family dwellings.
- (6) Garage and carport additions are permitted, provided they meet current construction standards and meet the minimum building setback requirements, and have roof and siding materials that is compatible with the primary structure.
- (7) Patio and porch covers are permitted, provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements.
- (8) Living area additions are permitted, provided they meet the minimum building setback requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as required of the primary structure and do not exceed total lot coverage as previously set forth.

R6 ♦ MOBILE HOME PARK

Section 26. Purpose.

The R6- Mobile Home Park District is established to:

- (1) Provide adequate space and site diversification for residential purposes designed to accommodate the peculiarities and design criteria of Mobile Homes.
- (2) Protect against pollution, environmental hazards and other objectionable influences.
- (3) Provide adequate provisions for vehicular and pedestrian circulation.
- (4) Promote housing densities appropriate to and compatible with existing and proposed public support facilities.
- (5) Promote the most desirable use of land and direction of building development; promote stability of development; protect the character of the area; conserve the value of land and buildings; and protect the City's ad valorem value.

- (6) Utilities shall be installed underground.

Section 27. Permitted Uses.

The uses permitted in the MH Mobile Home Area are as follows:

- (1) 1 mobile home on each space or lot approved for mobile homes.
- (2) Accessory buildings.
- (3) Recreational and commercial facilities designed for exclusive use of the park or subdivision's occupants.
- (4) Storage building.
- (5) One single-family dwelling unit on a one (1) acre or larger lot for the owner's or manager's residence.
- (6) Portable buildings are allowed provided they are tied and anchored.
- (7) Group home.
- (8) All Mobile Home Parks shall have an open space equal to 5% of the gross area of the park.
- (9) At no time may an existing Mobile Home Park be converted to a mobile home or recreational vehicle subdivision without first meeting all the requirements pertaining to subdivisions and receiving approval by the City Council.

Section 28. Recreational Vehicle Park.

- (1) A development designed as a Recreational Vehicle Park shall meet all requirements set forth by State and Local Governments. The facility so designed shall be for the explicit purpose of renting or leasing of recreational vehicles sites.
- (2) At no time may an existing Recreational Vehicle Park be converted to a mobile home or recreational vehicle subdivision without first meeting all the requirements pertaining to subdivisions and receiving approval by the City Council.
- (3) Utilities shall be installed underground.

SOB ♦ SEXUALLY ORIENTED BUSINESS DISTRICT

Section 29.

Sexually Oriented Businesses will be allowed provided fees are paid and permits received. They will only be allowed on County Roads and shall not be further into the City Limits than 1,000 feet. No other business, residence or structure is to be within 1,000 feet of the SOB.

Section 30. Exemptions or Exclusions.

- (1) Any Item accepted as exempted from these Regulations by prior use will come under current Regulations and Zoning of the property if the property is altered in any form or fashion.

Section 31. Information Relative to Mobile Homes.

- (1) Mobile Homes presently in the City are grandfathered where located.
- (2) Replacement homes must comply with Section 25 of this ordinance.
- (3) Lots must be at least 1 acre in size.
- (4) Grandfathered Mobile homes that have been abandoned for a period of no less than six (6) months shall comply with present zoning district regulations.

Section 32. Authority of the City Council and Building Inspector.

The City Council is hereby authorized to promulgate rules, regulations, standards and specifications for zoning in the City of Niederwald. No such rules, regulations, standards, and specifications shall conflict with this or any Ordinances of the City. All such improvements shall be constructed, installed, designed, located and arranged in accordance with such rules, regulations, standards, and specifications.

Section 33. 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.

Section 34. Fees.

All applications and submissions required by this Ordinance are to be accompanied by such fees and costs as may be required pursuant to such schedule of fees as may be adopted and amended from time to time by resolution of the Council. Fees for the Zoning Ordinance shall be as follows:

- (1) **Application for variance**

Single Family Residential:	\$ 150.00 per application
Multi-Family Residential:	\$ 300.00 per application
Non-Residential:	\$ 500.00 per application

(2) Application for Special Use Permits

Single Family Residential:	\$ 150.00 per application + \$3.00 per acre
Multi-Family Residential:	\$ 300.00 per application + \$5.00 per acre
Non-Residential:	\$ 500.00 per application + \$5.00 per acre

(3) Application for Amendment of the Zoning Classification of a particular parcel

Single Family Residential:	\$ 150.00 per application + \$3.00 per acre
Multi-Family Residential:	\$ 300.00 per application + \$5.00 per acre
Non-Residential:	\$ 500.00 per application + \$5.00 per acre

(4) Application for Amendments that Supplement, Change, or Repeal General Provisions of this Ordinance

\$500.00 per section amended.

(5) Application for Sexually Oriented Business (SOB)

Business:	\$ 1,500.00 per application + \$500.00 per acre
Permit:	\$ 2,000.00 per year

(6) Application for Landfill within five (5) mile radius of City Limits

Landfill:	\$500.00 per application + \$5.00 per acre
Permit:	\$500.00 (two-year period)

These fees are not mutually exclusive. The full amount of the fee for each type of application shall be charged. The Council for those cases, such as existing undersized lots, in which the strict application of the development standards for the applicable zoning area would render such property unusable, may waive the fee for a variance request. For mixed-use projects, fees shall be prorated in accordance with the acreage devoted to each use.

Section 35. 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 zoning action, 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.

Section 36. Enforcement Provisions.

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.

Section 37. Effective Date.

This Ordinance shall become effective on the 23 day of NOVEMBER, 1998.

PASSED AND APPROVED this the 23 day of NOVEMBER, 1998.

CITY OF NIEDERWALD, TEXAS

Rickie Adkins
Rickie Adkins, Mayor

Approved:

Angie Schulze
Angie Schulze, Mayor Pro Tem

Glenda Buehring
Glenda Buehring, Council Member

Emma Gaskin, Council Member

Vacant, Council Member

Shirley R. Whisenant
Shirley R. Whisenant, Council Member



ATTEST:

Missy Gray
Missy Gray
City Secretary