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ORDINANCE NO. 071601 MC

AN ORDINANCE ESTABLISHING THE MUNICIPAL COURT OF THE CITY OF NIEDERWALD, TEXAS; PROVIDING FOR THE JURISDICTION OF THE MUNICIPAL COURT; PROVIDING FOR THE POSITION OF MUNICIPAL JUDGE; PROVIDING FOR THE APPOINTMENT OF A TEMPORARY MUNICIPAL JUDGE; PROVIDING FOR THE POSITION OF COURT CLERK; PROVIDING FOR A MUNICIPAL COURT BUILDING SECURITY FEE; PROVIDING FOR A MUNICIPAL COURT TECHNOLOGY FEE; PROVIDING FOR SPECIAL EXPENSES; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

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

WHEREAS, Chapter 29 of the Texas Government Code governs the creation, organization, and jurisdiction of municipal courts in general-law municipalities; and

WHEREAS, The City Council desires to establish a municipal court for the City of Niederwald as authorized by Chapter 29 of the Texas Government Code; and

WHEREAS, Section 29.004(b) of the Texas Government Code provides that the Mayor is the ex officio judge of the municipal court in a general-law city unless the municipality by ordinance has provided for the appointment and qualifications of the judge; and

WHEREAS, the governing body of the City of Niederwald, Texas desires that the mayor serve as the ex officio judge of the Municipal Court of Niederwald, Texas; Now Therefore

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

I. Creation of the Municipal Court

There is hereby created and established a court in and for the City which shall be known as the Niederwald Municipal Court.

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II. Jurisdiction of Municipal Court

(A) The Niederwald Municipal Court shall have exclusive original jurisdiction within the territorial limits of the City of Niederwald, Texas in all criminal cases that arise under the ordinances of the City and are punishable by a fine not to exceed:

- (1) \$2,000.00 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, including dumping of refuse; or
- (2) \$500.00 in all other cases arising under a municipal ordinance.

(B) Said Municipal Court has concurrent jurisdiction with the Justice Court of the precinct in which the City is situated in all criminal cases under state law that:

- (1) arise within the territorial limits of the City and are punishable only by a fine; or
- (2) arise under Chapter 106 of the Texas Alcoholic Beverage Code and do not include confinement as an authorized sanction.

(C) An offense which is punishable by "fine only" is defined as an offense that is punishable by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment. The fact that a conviction in the Municipal Court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the Municipal Court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the Municipal Court.

(D) The Municipal Court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the Municipal Court has jurisdiction.

III. Municipal Judge

There is hereby created the office of Judge of the Municipal Court who shall have all the powers and authority as granted by state law and the ordinances of this City, and shall perform the duties as required by state law and the ordinances of this City. The Mayor shall serve as the ex officio judge of the Niederwald Municipal Court as authorized by Section 29.004 of the Texas Government Code. The Mayor shall serve as the ex officio judge without compensation.

IV. Temporary Municipal Judge

The City Council may appoint a temporary municipal judge to sit for the Mayor should the Mayor, for any reason, be unable to act as Judge of the Municipal Court. The temporary municipal judge shall serve at the pleasure of the City Council, may be removed at will, with or without cause, and shall have the powers and duties of the office of municipal judge while serving as the temporary municipal judge, and shall be entitled to compensation as set by the City Council.

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V. Municipal Court Clerk

The position of Municipal Court Clerk is hereby created, and shall receive such compensation as may be fixed by the City Council. The Municipal Court Clerk shall be appointed to office by the City Council and shall be subject to removal at any time by the Mayor with the consent of the City Council. In the event the City Council fails to appoint a Clerk for the Municipal Court, the City Secretary shall act as the ex officio clerk of said Court until such appointment. The Clerk of the Municipal Court shall keep minutes of the proceedings of the Municipal Court, issue all process, and generally perform the duties for the Municipal Court that a county clerk performs for a county court or as otherwise authorized by law.

VI. Municipal Court Building Security Fee

There is hereby created and established a municipal court building security fund pursuant to Texas Code of Criminal Procedure art. 102.017. The Niederwald Municipal Court is authorized and required to assess a municipal court building security fee of three dollars (\$3.00) as a cost of court, in addition to all other authorized fees and costs, from each defendant convicted in a trial of a misdemeanor offense in the municipal court. A defendant is considered convicted if 1) a sentence is imposed on the person; 2) the person receives community supervision, including deferred adjudication; or 3) the court defers final disposition of the person's case. Each misdemeanor conviction shall be subject to a separate assessment of the fee. The fees collected pursuant to this section shall be paid into the city treasury for deposit in a fund to known as the municipal court building security fund. Funds collected pursuant to this section shall be used only for the purpose of financing the purchase of security devices and/or services for the building housing the municipal court. Security devices and/or services shall include, but not be limited to, all of the following items: 1) the purchase or repair of X-ray machines and conveying systems; 2) hand-held metal detectors; 3) walk-through metal detectors; 4) identification cards an systems; 5) electronic locking and surveillance equipment; 6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services; 7) signage; 8) confiscated weapon inventory and tracking systems; 9) locks, chains, alarms, or similar security devices; 10) the purchase or repair of bullet-proof glass; and 11) continuing education on security issues for court personnel and security personnel.

VII. Municipal Court Technology Fee

There is hereby created and established a municipal court technology fund pursuant to Texas Code of Criminal Procedure art. 102.0172. The Niederwald Municipal Court is authorized and required to assess a municipal court technology fee of four dollars (\$4.00) as a cost of court, in addition to all other authorized fees and costs, from each defendant convicted in a trial of a misdemeanor offense in the municipal court. A defendant is considered convicted if 1) a sentence is imposed on the person; 2) the person receives community supervision, including deferred

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adjudication; or 3) the court defers final disposition of the person's case. Each misdemeanor conviction shall be subject to a separate assessment of the fee. The fees collected pursuant to this section shall be paid into the city treasury for deposit in a fund to known as the municipal court technology fund. Funds collected pursuant to this section shall be used only for the purpose of financing the purchase of technological enhancements for the municipal court. Technological enhancements shall include, but not be limited to, all of the following items: 1) computer systems; 2) computer networks; 3) computer hardware; 4) computer software; 5) imaging systems; 6) electronic kiosks; 7) electronic ticket writers; and 8) docket management systems. In accordance with article 102.0172 of the Texas Code of Criminal Procedure, this section and the assessment and collection of the municipal court technology fee expires September 1, 2005. The purpose of the use of any funds remaining in the fund shall continue to be used and administered as required by this section and for that purpose this section remains in effect.

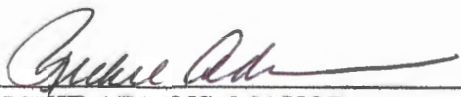
VIII. Special Expenses

The following special expenses and costs are authorized to be collected by the municipal court: 1) a special expense of \$25.00 for the issuance and service of a warrant of arrest for failure to appear; and 2) a special expense of \$25.00 for the issuance and service of a warrant of arrest, after due notice to appear for trial.

IX. Repealer and Severability

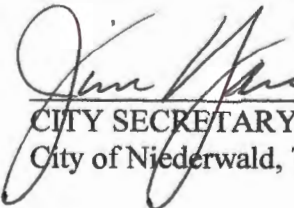
All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

READ, APPROVED, and ADOPTED on this 10th day of July, 2001.



RICKIE ADKINS, MAYOR
City of Niederwald, Texas

ATTEST:



CITY SECRETARY
City of Niederwald, Texas

