

ORDINANCE NO. 2019-ORD016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOUBLE HORN, TEXAS, ESTABLISHING A MUNICIPAL COURT IN THE CITY OF DOUBLE HORN; PROVIDING FOR JURISDICTION; PROVIDING FOR THE APPOINTMENT OF A MUNICIPAL JUDGE AND ALTERNATE JUDGES; PROVIDING FOR THE APPOINTMENT OF A COURT CLERK, ESTABLISHING POWERS AND DUTIES OF THE COURT AND ITS PERSONNEL; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Government Code Section 29.003 authorizes the governing body of a municipality to create a municipal court; and

WHEREAS, The City Council of the City of Double Horn, Texas (the "City Council") seeks to provide for the enforcement of its municipal ordinances through a Municipal Court; and

WHEREAS, the City Council hereby determines that the creation of a municipal court is necessary to provide a more efficient disposition of cases arising in the City of Double Horn.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DOUBLE HORN, TEXAS, THAT:

Section 1. Findings Incorporated. The above and foregoing premises, including those found in Exhibit "A", are true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

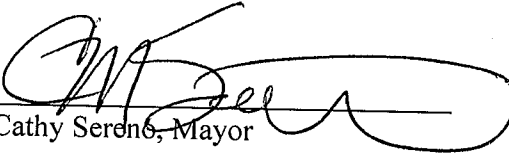
Section 2. Municipal Court Created. Exhibit "A", attached hereto and incorporated herein for all purposes, is adopted thereby creating the Double Horn Municipal Court.

Section 3. Savings/Repealing Clause. All City Ordinances shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed or amended ordinance, nor shall the repeal or amendment prevent a prosecution from being commenced for any violation if occurring prior to the repeal or amendment of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 4. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Double Horn hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its date of passage and approval, and publication as provided by law.

DULY ADOPTED by the City Council of the City of Double Horn, Texas on the 15th day of May 2020.


Cathy Sereno, Mayor

ATTEST:


Karen Maxwell, City Secretary

APPROVED AS TO FORM:

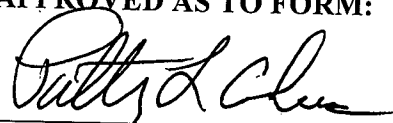

Patty L. Akers, City Attorney

Exhibit A

SECTIONS:

1. MUNICIPAL COURT ESTABLISHED:

There is created a municipal court ("court") which shall be known as the City of Double Horn Municipal Court in the City of Double Horn, Texas and is hereby established pursuant to Texas Government Code Chapter 29, and the terms set forth therein are hereby adopted governing the operation of the court.

2. JURISDICTION

- 2.1. The court has the jurisdiction provided by chapter 29 of the Government Code for municipal courts.
- 2.2. The court has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the City and are punishable only by fine.
- 2.3. The Municipal Court shall have exclusive original jurisdiction in all criminal cases arising under any ordinances of the City in which the punishment is by fine only, and where the maximum fine for the offense charged does not exceed \$2000, except for violations for dumping of refuse which shall not exceed \$4000, and where the offense charged arose within the corporate limits of the City (or outside of the corporate limits but within an area over which the City has jurisdiction and control under the laws of the state).
- 2.4. The municipal court shall have civil jurisdiction for the purpose of enforcing the City's ordinances enacted under Subchapter A, Chapter 214, Local Government Code; Subchapter E, Chapter 683, Transportation Code; concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the City's territorial limits and property owned by the City located in the City's extraterritorial jurisdiction for the purpose of enforcing health and safety or nuisance abatement ordinances; and authority to issue (a) search warrants for the purpose of investigating health and safety or nuisance abatement ordinance violations, and (b) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

3. MUNICIPAL JUDGE

- 3.1. The municipal judge shall have all the powers and authority granted by state law, and the ordinances of Double Horn and shall perform all the duties as prescribed by the laws of the State of Texas, and the ordinances of Double Horn.
- 3.2. The office of the judge of the municipal court shall be filled by appointment by the City council. The person appointed to the office of the judge of the municipal court shall be the presiding judge of the municipal court of the City of Double Horn.

- 3.2.1. The municipal judge shall serve a two (2) year term of office that coincides with the mayor's term of office and:
 - 3.2.2. be a resident of the State of Texas; and
 - 3.2.3. be a citizen of the United States.
 - 3.2.4. have experience as determined by the City Council
- 3.3. Compensation for the office of municipal judge shall be set from time to time by the City Council. The salary will not be based directly or indirectly on fines, fees, or costs collected by the court.
- 3.4. Appointment of Assistant or Additional Judges: The City Council may appoint such assistant judges as may be necessary to perform the duties of the Judge of the Municipal Court; or a temporary judge to act for the Judge in the case of his temporary absence or disability; and such assistant, additional or temporary judges shall receive such compensation as may be set by the Council.
- 3.5. The municipal court judge or judges shall serve for a two-year term that coincides with the mayor's term of office. The first appointed judge shall serve until the expiration of the mayor's term. In the event of a vacancy, the council may appoint a judge to serve for the remainder of the un-expired term of office. A judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the council, continue to serve for another term of office beginning on the date the previous term of office expired.
- 3.6. If more than one municipal judge is appointed to serve, the City council shall appoint one of the judges as the presiding judge. The presiding judge shall:
- 3.6.1. maintain a central docket for cases filed within the territorial limits of Double Horn over which the municipal court has jurisdiction;
 - 3.6.2. provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the court;
 - 3.6.3. request the jurors needed for cases that are set for trial by jury;
 - 3.6.4. temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary, for the expeditious disposition of business in the court; and
 - 3.6.5. supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court.

3.7. The municipal court judge or judges are each hereby appointed as municipal officers. A municipal court judge may be removed from office in the same manner that municipal officers may be removed from office.

4. COURT RULES, COMPLAINTS AND PLEADINGS

4.1. The Code of Criminal Procedure and the Texas Rules of Appellate Procedure govern the trial of cases before the municipal court. The Court may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the Court that are not inconsistent with law.

4.2. Complaints and pleadings must substantially conform to the relevant provision of Chapters 27 and 45 of the Code of Criminal Procedure.

5. CLERK OF THE COURT, OTHER COURT PERSONNEL

5.1. The City Secretary shall serve as the clerk of the municipal court. The clerk shall perform duties in accordance with state law and City ordinances.

5.2. During proceedings of the court, the clerk and other court personnel shall serve at the direction of the judge of the municipal court. At all other times, other court personnel shall serve at the direction of the City secretary.

5.3. The court clerk shall acquire and maintain a seal in conformance with state law for the Double Horn Municipal Court.

5.4. The court clerk shall supervise the selection of persons for jury service in the municipal court.

5.5. The court clerk may appoint one or more deputy clerks who; when acting in such capacity, shall have the same authority as the clerk of the municipal court.

6. MUNICIPAL PROSECUTOR

The duly appointed City Attorney, or deputy City Attorney, shall serve as prosecutor in the Municipal Court. Prosecution in the Municipal Court shall be conducted as provided by Article 45.201 of the Code of Criminal Procedure.

7. COURT COSTS AND FEES

7.1. The Municipal Court Clerk shall collect and administer all fees and fines authorized by State law and City ordinances. Fees and fines shall be in the amounts established by State law, the Municipal Court Judge, and fine and fee schedules adopted by the City Council, as may be amended.

- 7.2. Court costs shall be assessed pursuant to and in compliance with the state statutes.
- 7.3. All costs and fines imposed by the Municipal Court shall be paid into the treasury for the use and benefit of the City.
- 7.4. In cases where a defendant requests a jury trial and is subsequently found guilty, the judgment, at the discretion of the Judge, may include the costs of the jury fees not in excess of that provided by statute.
- 7.5. In the event a case is appealed from the Municipal Court, the defendant shall pay the costs in an amount established in the City's Master Fee Schedule.

8. APPEALS

- 8.1. A defendant has the right of appeal from a judgment or conviction. The Prosecutor for the State of Texas has the right to appeal as provided by Article 44.01 of the Code of Criminal Procedure.
- 8.2. All appeals shall be conducted pursuant to the Texas Code of Criminal Procedure.

9. FINES, COSTS AND SPECIAL EXPENSES

- 9.1. Warrant Fee. There is hereby created a fine in the form of a special expense, which shall be imposed by the governing body of the city in an amount not to exceed the amount provided in the Municipal Court Fine and Fee Schedule, to be levied against the defendant or his property for the for the issuance and service of a warrant of arrest for an offense under section 38.10, Texas Penal Code, or section 543.009, Texas Transportation Code. This fine is authorized under Texas Code of Criminal Procedure, article 45.203, and is not refundable.
- 9.2. Technology fund.
 - 9.2.1. Established. There is hereby created and established a municipal court technology fund, herein known as "the fund," pursuant to article 102.0172 of the Code of Criminal Procedure. The fund may be maintained in an interest-bearing account and may be maintained in the general revenue account.
 - 9.2.2. Amount of fee; assessment and collection.
 - 9.2.2.1. The fee shall be in the amount established in the Municipal Court Fine and Fee Schedule. The fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:
 - 9.2.2.1.1. A sentence is imposed on the person;

9.2.2.1.2. The person is placed on community supervision, including deferred adjudication community supervision; or

9.2.2.1.3. The court defers final disposition of the person's case.

9.2.2.2. The fee shall be collected on conviction for an offense committed after this section is adopted.

9.2.2.3. The clerk of the court shall collect the fee and pay the fee to the municipal treasurer (or other official who discharges or performs the duties of the treasurer) of the city, who shall deposit the fee into the municipal court technology fund.

9.2.2.4. Designated uses; administration. The fund shall be used only to finance the purchase of or maintain technological enhancements for the municipal court of the city, including those items as specified in the Code of Criminal Procedure, article 102.0172, as amended. The fund shall be administered by or under the direction of the city council.

9.3. Building security fund.

9.3.1. Established. There is hereby created a municipal court building security fund. This fund shall be administered by or under the direction of the governing body of the city.

9.3.2. Amount of fee; assessment and collection. The fee shall be in the amount provided in the Master Fee Schedule. The fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the city municipal court as a cost of court. For the purposes of this section, a defendant is considered convicted if:

9.3.2.1. A sentence is imposed on the person;

9.3.2.2. The person is placed on community supervision, including deferred adjudication community supervision; or

9.3.2.3. The court defers final disposition of the person's case.

9.3.3. The fee shall be collected on conviction for an offense committed on or after the effective date of this section.

9.3.4. The court clerk shall collect the fee and deposit the fee into the municipal court building security fund.

9.3.5. Purposes. The municipal court building security fund may be used only to finance items when used for the purpose of providing security services for any buildings housing the municipal court of the city, including those items as specified in the Code of Criminal Procedure, article 102.017, as amended.

10. DRIVING SAFETY COURSE FEE

- 10.1. There is hereby created a reimbursement fee in the amount provided in the Master Fee Schedule to be imposed at the sole discretion of the municipal court judge of an amount to be levied against any person requesting a driving safety course authorized under article 45.0511, Code of Criminal Procedure. This fee is to be paid at the time the driving safety course is granted and not thereafter. This fee is authorized under article 45.0511, Code of Criminal Procedure, and is not refundable.

11. COLLECTION FEE

- 11.1. In accordance with article 103.0031 of the Texas Code of Criminal Procedure, there is hereby imposed an additional fee of thirty percent (30%) on all debts and accounts receivable, i.e.: fines, fees, court costs, restitution, and other debts that are more than sixty (60) days past due and have been referred to a private firm for collection.