

ORDINANCE NO. 2022-ORD034

SUBDIVISION ORDINANCE

AN ORDINANCE OF THE CITY OF DOUBLE HORN, TEXAS ADOPTING A SUBDIVISION ORDINANCE OF THE CITY OF DOUBLE HORN, TEXAS, AS SPECIFICALLY SET FORTH IN EXHIBIT “A”, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN IN ITS ENTIRETY, REGULATING THE PLATTING OF PROPERTY, PROVIDING FOR APPLICATIONS AND PROCEDURES OF APPROVAL OF SAME; PROVIDING FOR APPLICATION FEES; PROVIDING FOR ENFORCEMENT AND PENALTIES UP TO TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Double Horn, Texas, (hereinafter “City Council”) finds that public health, safety, welfare, and aesthetic concerns create the need to enact subdivision regulations; and

WHEREAS, the City of Double Horn, Texas, (the “City”) has the legal authority to adopt regulations governing the platting and subdivision of land within its corporate limits in accordance with its Comprehensive Plan in order to lessen congestion in the streets; secure safety from fire, panic and other dangers, promote health and general welfare; provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate the adequate provision of transportation, water, sewer, and other important governmental interests; and

WHEREAS, herein are set forth in Exhibit “A”, the “Double Horn Subdivision Ordinance”, attached to this Ordinance (referred to as the “Double Horn Subdivision Ordinance”) are beneficial to the orderly development of the City of Double Horn; and

WHEREAS, after all legal notices required by Chapter 212 of the Texas Local Government Code, and after consideration of the comments and input received, the City Council desires the adoption of the proposed Double Horn Subdivision Ordinance as set forth in Exhibit “A” attached hereto; and

WHEREAS, after compliance with all legal notices required by Chapter 212 of the Texas Local Government Code, and after consideration of the Double Horn Subdivision Ordinance at its lawfully posted open meeting on the 13th day of October, 2022, the City Council finds and determines that the proposed regulations are consistent with the City’s Comprehensive Plan, are reasonable and that the best interests of the public are served by adoption of the Double Horn Subdivision Ordinance as more specifically set forth herein.

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

SECTION 1. INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. FINDINGS

After due deliberations and consideration of the recommendation of the City Council and the information and other materials received at the public meetings, the City Council has concluded that the adoption of the Double Horn Subdivision Ordinance serves the best interests of the City of Double Horn, Texas, serves the health, safety, welfare and concerns of the public, and is consistent with the City's Comprehensive Plan.

SECTION 3. ADOPTION

The Subdivision Ordinance of the City of Double Horn, Texas, is hereby adopted as set forth in **Exhibit "A"**, "Double Horn Subdivision Ordinance", a copy of which is attached hereto and incorporated herein as if written word for word (**Exhibit "A"** shall be referred to as the "Double Horn Subdivision Ordinance"). The Double Horn Subdivision Ordinance is hereby adopted. This Ordinance shall be maintained by the City Secretary and a copy shall be available for public inspection during regular business hours.

SECTION 4. NO VESTED INTEREST/REPEAL

No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein, which are separate and apart from any vested right granted by Chapter 245 of the Local Government Code. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

SECTION 5. UNLAWFUL USE OF PREMISES

It shall be unlawful for any person, firm, entity, or corporation to plat or subdivide property in the city limits, except as authorized by this Ordinance, and it shall be unlawful for any person, firm or corporation to construct on said property any building or structure that is not already located on a legal lot or tract in conformity with the requirements of this Ordinance.

SECTION 6. SAVINGS

That all rights and remedies of the City of Double Horn are expressly saved as to any and all violations of the provisions of any Ordinances regulating, affecting, or relating to the platting or subdivision of land which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. CUMULATIVE REPEALER

That this Ordinance shall be cumulative of all other Ordinances affecting platting and subdivision of property which are not expressly amended or repealed hereby in accordance with Section 3 above, and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance in accordance with Section 3 above. Except as provided in Section 3 above, Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 8. 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 9. PENALTY

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00), in accordance with the enforcement and penalty provisions described in Exhibit "A", and a separate offense shall be deemed committed each day or part of a day during or on which a violation occurs or continues. Further, if the governing body of the City of Double Horn determines that a violation of this Ordinance creates a threat to the public safety, the City may bring suit in the District Court to enjoin such violation and may exercise all available remedies as allowed by law.

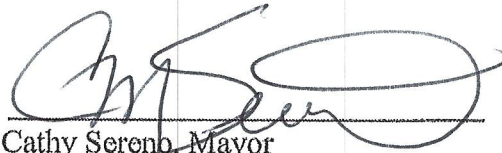
SECTION 10. PUBLICATION

The City Secretary of the City of Double Horn is hereby directed to publish the Caption, Penalty and Effective Date of this Ordinance as required by Section 52.011 of the Texas Local Government Code.

SECTION 11. EFFECTIVE DATE

That this Ordinance shall be in full force and effect from and after its date of passage, in accordance with law, and it is so ordained.

DULY ADOPTED by the City Council of the City of Double Horn, Texas on the 19th_ day of _October 2022.


Cathy Sereno, Mayor

ATTEST:


Karen Maxwell, City Secretary

APPROVED AS TO FORM:

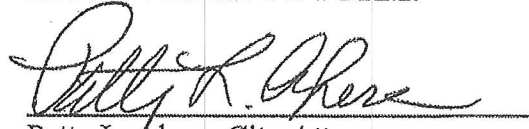

Patty L. Akers, City Attorney

EXHIBIT “A”
CITY OF DOUBLE HORN SUBDIVISION ORDINANCE

Section 1. Authority.

This ordinance is adopted under the authority of the constitution and laws of the State of Texas, including Chapter 212, Texas Local Government Code.

Section 2. Purpose.

The purpose of this ordinance is to provide rules governing plats, replats and amendments to plats and subdivisions of land within the city limits of the City of Double Horn (the “City”) to promote the health, safety, morals and general welfare of the City and the safe, orderly, and healthful development of the City.

Section 3. Conflict with other Ordinances.

Whenever the standards and specifications in this ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

Section 4. Plat Required.

- (a) The owner of a tract of land located within the city limits who divides the tract in two or more parts to lay out a subdivision of the tract, or to lay out suburban, buildings, or other lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared and filed with the City for approval pursuant to this ordinance. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access to a public or private road and no public improvement is being dedicated or is required.
- (b) The owner of a tract of land located within the city limits who seeks to amend a plat or to replat a lot or subdivision must have the amended plat or replat prepared and filed with the City for approval pursuant to this ordinance.
- (c) The term “plat,” as used hereafter, means a subdivision plat, an amended plat, or replat.
- (d) A plat that subdivides a tract of land must:
 - (1) describe the subdivision by metes and bounds;
 - (2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part;
 - (3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;
 - (4) describe each lot in a replat or amended plat by metes and bounds;
 - (5) identify each lot by Lot Number and each Block alphabetically, beginning with A

and each Section by number;

- (6) provide for each lot to have access to a public utility easement and public street;
- (7) provide that storm water drainage shall be contained or managed so that runoff from the property within the subdivision will not exceed pre-development conditions;
- (8) provide plat notes that identify the zoning of the property, how utilities will be provided and any other ordinances that are applicable to the subdivision;
- (9) provide for a home owner or property owner association;

(10) provide that water service for the plat or subdivision shall be provided by the land owner and/or developer by private well(s) or from Double Horn Water Supply Corporation. Sewer service for the subdivision or plat will be provided by owner and/or developer by on-site sewage facilities licensed in accordance with city requirements. No structure, building or facility shall be constructed or located on a tract of land without demonstrating that adequate water and sewer facilities are sufficiently available to the tract of land.

(e) A replat must:

- (1) describe the subdivision or lot(s) being replatted.
- (2) Comply with the plat requirements set out in this ordinance, as applicable.
- (3) Replats shall not revise or amend any restrictive covenants that apply to a subdivision.
- (4) Replats may provide additional plat notes or restrictions, if compliant with subsection (3).
- (5) No preliminary plat is required for an amended plat or replat.

Section 5. Processing of Application.

An owner of a tract of land located within the city limits who is required to obtain approval of a plat from the City shall file a complete application for such plat. The City shall process the plat application within the time frames required by Chapter 212 of the Texas Local Gov't Code. The City is not required to process an incomplete plat and will advise the applicant of any matters or issues that result in the plat application being incomplete. Incomplete applications shall be returned to the applicant who must remedy the application and then re-file it with the City. A plat fee shall be submitted with each application that is submitted and including a re-submittal.

Section 6. Fees for Platting

- (a) The fee for each approval of a plat submitted to the city council shall be in the amount established by the city council from time to time.
- (b) The application fee for a replat shall be Two Hundred Dollars plus reimbursement for professional fees incurred by the City for costs of the city engineer or city attorney.
- (b) The City treasurer shall tender a bill for payment of the above fee to the owner of the property being platted.

Section 7. Planning and Zoning Commission

The City Council shall act as the Planning and Zoning Commission, in the absence of a Planning and Zoning Commission.

Section 8. Form and contents of replat

- (a) The following drawings shall be submitted:
 - (1) One (1) 18 x 24 inch reproducible transparency for execution purposes.
 - (2) Two (2) paper prints of the above transparency.
 - (3) Seven (7) 8-1/2 x 11 inch reductions of the above paper print.
- (b) One (1) copy of each vacation or release of easement, if any, by all service providers shall be submitted.
- (c) Submittals of plats and replats shall be delivered to the (Double Horn Water Supply Corporation) office for review. Prior to approval by the City Council Double Horn Creek Water Supply Corporation will provide a letter of Service Availability.

Section 9. Authority Responsible for Approval.

The municipal authority responsible for approving plats under this subchapter is the City Council.

Section 10. Prohibition Against Construction Varying from Plat.

No construction of any street, or part of a street, whether public or private, shall be commenced within any property that is shown on a plat that has been filed in the Real Property Records, Burnet County, Texas, unless the street or part of the street is shown on the plat.

Section 11. Waivers.

The City Council may grant a waiver from this ordinance when, in its opinion, undue hardship will result from requiring strict compliance. In considering a waiver, the City Council shall prescribe such conditions it deems necessary or desirable in the public interest. In making the findings required below, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No waiver can be considered unless the City Council finds:

- (a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land;
- (b) That the waiver is necessary for the preservation and enjoyment of the legal property rights of its owner;
- (c) That the granting of the waiver will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area; and
- (d) That the granting of the waiver will not prevent the orderly subdivision of other land in the area in accordance with the provisions of this ordinance.

Such findings of the City Council, together with the specific facts upon which such findings are

based shall be incorporated into the official minutes of the City Council meeting at which such waiver is considered. Waivers may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

Section 12. Form and content of Plats.

(a) All Plats shall conform to the following:

- (1) A statement signed and acknowledged by the owner dedicating all public utility and drainage easements to the public use.
- (2) A certificate bearing the signature and seal of the engineer or surveyor who made the survey that there has been compliance with the requirements of this ordinance.
- (3) The limits of the 100-year floodplain and elevation data bearing the seal of a registered professional engineer.
- (4) The record plat shall also include the following:
 - a. Owner's acknowledgment:

State of Texas

County of _____

I (we), the undersigned owner(s) of the land shown on this plat, and designated herein as the _____ Addition of the City of Double Horn, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all watercourses, drainage ways, easements, and public places thereon for the purpose or consideration therein expressed.

Owner

State of Texas

County of _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and considerations therein stated.

GIVEN under my hand and seal of office this the _____ day of _____, 20__.

Printed Name of Notary Public

Notary Public in and for the State of Texas

My Commission Expires: _____

b. Certification by the Mayor of the City Council:

In approving this plat by the City Council of the City of Double Horn, Burnet County, Texas, it is understood that the building of all streets, roads, and other public thoroughfares delineated and shown on this plat, and all bridges and culverts necessary to be constructed or placed in such streets, roads or other public

thoroughfares, or in connection therewith, shall be the responsibility of the owner and/or developer of the tract of land covered by this plat in accordance with plans and specifications prescribed by the City of Double Horn, Burnet County, Texas, and the said City of Double Horn assumes no obligation to build or maintain such streets, roads and other public thoroughfares shown on this plat, or of constructing any bridges or culverts in connection therewith.

Approved and authorized for record by the City Council of the City of Double Horn, Burnet County, Texas.

Dated this the _____ day of _____, 20____.

Mayor

Secretary

c. Certification of the surveyor responsible for surveying the subdivision or plat area, attesting to its accuracy:

State of Texas

County of _____

I, the undersigned, a (registered professional engineer/public surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey on the property made under my supervision on the ground, and I further certify that proper engineering consideration has been given to this plat.

(Engineer or Surveyor seal)

Registered Professional Engineer or Registered Public "Surveyor"

d. City Engineer's Certification:

State of Texas

County of Burnet

I, the undersigned, a Registered Professional Engineer, licensed in the State of Texas, hereby certify that proper engineering considerations have been given to this plat and it meets the requirements of the zoning and subdivision ordinances of the City of Double Horn, Texas. I further certify that the 100-year floodplain, if any is shown hereon, shall be contained within the drainage easements shown. Minimum building slab in elevation shall be as established on this plat.

(Engineer's Seal)

Registered Professional Engineer

e. Filing certification:

State of Texas

County of _____

I, _____, Clerk of the County Court of Burnet County, Texas, hereby certify that the foregoing instrument was filed in my office at _____ .m. on this the _____ day of _____, 20____, and duly recorded at _____ .m. on the _____ day of _____, 20____, in the Plat Records of Burnet County, Texas, in Volume _____ at Page(s) _____.

WITNESS MY HAND AND SEAL OF THE COURT OF BURNET COUNTY, TEXAS, THIS _____ DAY OF _____, 20__.

CLERK OF THE COUNTY COURT

BURNET COUNTY, TEXAS

DEPUTY FILING