

**ORDINANCE NO. 2020-ORD018**

**ZONING ORDINANCE**

**AN ORDINANCE OF THE CITY OF DOUBLE HORN, TEXAS ADOPTING A ZONING ORDINANCE OF THE CITY OF DOUBLE HORN, TEXAS, AS SPECIFICALLY SET FORTH IN EXHIBIT “A” AND ALL EXHIBITS THERETO, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN IN ITS ENTIRETY, AND ADOPTING A ZONING MAP ATTACHED HERETO AS EXHIBIT “B”, AND DIVIDING THE CITY INTO SEVERAL DISTRICTS; ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS AND CREATING ZONING DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; WITHIN SUCH DISTRICTS REGULATING THE USE OF LAND, BUILDINGS AND STRUCTURES; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF 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 zoning regulations; and

**WHEREAS**, the City of Double Horn, Texas, (the “City”) has the legal authority to adopt regulations governing zoning and the use 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, sewers, schools, parks and other public requirements; regulate aesthetics and other important governmental interests; and

**WHEREAS**, herein are set forth in Exhibit “A”, “Double Horn Zoning Ordinance” and Exhibit “B” thereto, “Zoning District Map”, respectively, to this Ordinance (collectively referred to as the “Double Horn Zoning Ordinance”) are beneficial to the orderly development of the City of Double Horn; and

**WHEREAS**, after all legal notices required by Chapter 211 of the Texas Local Government Code, the required public hearing on the proposed Double Horn Zoning Ordinance was held by the City Council on the 23<sup>rd</sup> day of January, 2020, and after consideration of the comments and input received, the City Council desires the adoption of the proposed Double Horn Zoning Ordinance and Zoning Map as set forth in Exhibit “A” and Exhibit “B” thereto; and

**WHEREAS**, after compliance with all legal notices required by Chapter 211 of the Texas Local Government Code, the required public hearing on the proposed Double Horn Zoning Ordinance, and after consideration of the Double Horn Zoning Ordinance at its lawfully posted

open meeting on the 23<sup>rd</sup> day of January, 2020, 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 Zoning 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 hearing and public meetings, the City Council has concluded that the adoption of the Double Horn Zoning Ordinance serves the best interests of the City of Double Horn, Texas, serves the health, safety, welfare and aesthetic concerns of the public, and is consistent with the City's Comprehensive Plan.

**SECTION 3. ADOPTION**

The Zoning Ordinance of the City of Double Horn, Texas, is hereby adopted as set forth in **Exhibit "A"**, "Double Horn Zoning Ordinance", including all attachments thereto, and **Exhibit "B"**, "Zoning District Map", copies of which are attached hereto and incorporated herein as if written word for word (Collectively **Exhibit "A"** and **Exhibit "B"** shall be referred to as the "Double Horn Zoning Ordinance and Zoning District Map"). The Double Horn Zoning Ordinance and Zoning District Map are hereby adopted and shall constitute the Zoning Ordinance and Zoning District Map for the City of Double Horn, Texas. 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 or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm or corporation to construct on said premises any building or structure that is not in conformity with the permissible uses under 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 zoning, land use and/or development 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 zoning and zoning district maps 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 23<sup>rd</sup> day of January 2020.



Cathy Sereno, Mayor

**ATTEST:**

  
Karen Maxwell, City Secretary

**APPROVED AS TO FORM:**

  
Patty L. Akers, City Attorney

**EXHIBIT “A”**

**CITY OF DOUBLE HORN, TEXAS  
DOUBLE HORN ZONING ORDINANCE**

**CHAPTER 1 - GENERAL AUTHORITY**

**1.1.1.1 ENACTING CLAUSE**

This ordinance shall be known, cited and referred to as the Zoning Ordinance of the City of Double Horn, and may be referred to herein as the “Zoning Ordinance.”

**1.1.1.2 PURPOSE**

Regulations in this Zoning Ordinance are established in accordance with the Ordinance ORD006 Comprehensive Plan for the purpose of promoting the health, safety, morals, and general welfare and protecting and preserving places and areas of historical, cultural or architectural importance and significances for and of the citizens of the City of Double Horn. All of the zoning regulations are designed to:

- 1) Lessen congestion on streets, roads and highways;
- 3) Secure safety from fire, panic and other dangers;
- 4) Promote health and the general welfare;
- 5) Provide adequate light and air;
- 6) Prevent the overcrowding of land;
- 7) Avoid undue concentration of population; and
- 8) Facilitate adequate provision of transportation, water, sanitary and storm sewers, schools, parks and other public requirements facilities.

**1.1.1.3 RELATIONSHIP TO OTHER PLANS**

It is the intention of the city that these regulations are adopted in accordance with and to implement the Comprehensive Plan and the city’s land use and development policies.

**1.1.1.4 RELATIONSHIP TO PRIVATE RESTRICTIONS**

The provisions of this Ordinance are not intended to abrogate any deed restriction, covenants, easement or any other private agreement or restriction on the use of land. Provided, that where the provisions of this Ordinance are more restrictive or impose higher standards than a private restriction, the requirements of this Ordinance shall control. Private restrictions shall not be enforced by the city.

**1.1.1.5 EFFECTIVE DATE**

This Ordinance shall become effective from and after its adoption and publication as required by law, subject to the following: Any project vested under Chapter 245 of the Texas Local Government Code (“LGC”) prior to the effective date of this ordinance shall be allowed to construct under the regulations in effect at the time of vesting of the project. However, such uses and structures upon completion shall be considered as non-conforming uses and structures if they do not comply with the ordinance.

#### **1.1.1.6 ENFORCEMENT**

- A) It shall be unlawful to intentionally, knowingly or recklessly erect, construct, reconstruct, alter, maintain or use any building or land area in violation of any provision of this Ordinance.
- B) No permit, certificate, license or other document or verbal approval, subject to the provisions of this Ordinance shall be issued by any department, agency, or board until it has been determined that all substantive requirements have been met and all procedures have been followed.
- C) Offenses committed and all liabilities incurred prior to the effective date of any subsequent amendments to this Ordinance shall be treated as though all prior applicable regulations were in full force and effect for the purpose of sustaining any suit, action or prosecution with respect to such offenses and liabilities.

#### **1.1.1.7 PENALTY FOR VIOLATION**

- A) Any person or entity who violates any of the provisions of this Ordinance or fails to comply with any of the requirements, or builds, alters or uses any structure or property in violation of this Ordinance or of any permit or approval issued by the City pursuant to this Ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars (\$2,000) per violation and each day such violation shall be permitted to exist shall constitute a separate offense.
- B) The owner or owners of any building, structure, or premises or part thereof, where anything in violation of this Ordinance is placed, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as provided above.
- C) A person or entity commits an offense if the person or entity that owns, uses or controls a premises, or structure fails to comply with any of the provisions of this ordinance.
- D) It is a defense to prosecution under this Ordinance that a person is in compliance with an order of the Board of Adjustment that specifically authorizes otherwise unlawful conduct under this ordinance.

#### **1.1.1.8 CIVIL ACTION**

This Ordinance may be enforced through civil or criminal court action as provided by State law.

#### **1.1.1.9 ADMINISTRATIVE ENFORCEMENT**

- A) *Generally.* The City may use one or a combination of administrative enforcement efforts prior to and without judicial process to enforce these regulations.
- B) *Withholding or Denying Permits and Approvals.* The City may withhold, revoke, or deny all permits, approvals, or other authorizations on any land, building, or structure for which there is an uncorrected violation.
- C) *Suspension of Permits.* The City may suspend permits, including Conditional Use Permits, for a period of up to sixty (60) days to allow for the correction of the violation or the judgment of a court of competent jurisdiction.
- D) *Stopping Work.* The City may stop work on any site, building, or structure on such property where an uncorrected violation exists. The Mayor or his/her designee shall order the work stopped by notice in writing (referred to as a "stop-work order") served on any persons engaged in the doing or causing such work to be done. The stop-work order shall be posted on the property adjacent to the activity in question, and any such person shall stop work accordingly until authorized by the City to proceed with the work. The City may revoke permits as part of its effort to stop work pursuant to Subsection 1.1.1.9(E), Revocation of Permits and Approvals, below.
- E) *Revocation of Permits and Approvals.*
  - 1. *Revocation.* Any permit, Certificate of Occupancy, or other permit or approval required under these regulations shall be revoked when it is determined that:
    - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the permit or approval;
    - b. The permit or approval was procured by false representation;
    - c. The permit or approval was issued in error; or
    - d. There is a violation of any provision of these regulations.
  - 2. *Written Notice.* When revoking a permit, the City shall provide written notice of such revocation to the permit holder, stating that the subject violation shall be corrected in no less than ten (10) days.
  - 3. *Effect of Notice.* No work or construction may proceed after service of the revocation notice unless such work is to correct a violation.

#### **1.1.1.10 CERTIFICATE OF OCCUPANCY**

No building hereafter erected or structurally altered for which a building permit is required shall be used, occupied or changed in use until a certificate of occupancy has been issued by the City of Double Horn, stating that the building or proposed use of the building or premises complies with this Ordinance and the adopted building and related codes and the provisions of these regulations. A change in use shall be construed to mean any change in the occupancy of the building or premises; except for single family residential buildings, structures or uses that continue to be used for residential purposes which shall not require a Certificate of Occupancy. If provisions of this Ordinance are violated, the Building Official or their designee is authorized to revoke a certificate of occupancy until such time as the property is brought into full compliance with all applicable ordinances of the city.

**1.1.1.11 ENFORCEMENT PROCEDURES**

- A) *Generally.* This Section establishes the authorities of the City and procedures to monitor, investigate, and enforce the provisions of these regulations.
- B) *Administration.* The provisions of this Article shall be administered and enforced by the Mayor or designee, in consultation with the City Attorney as may be necessary, or other officials in the exercise of this duty.
- C) *Filing a Complaint.* Any person may allege a violation of these regulations by written and signed complaint that is filed with the City. Such complaint shall state the factual basis for the alleged violation along with the complainant's contact information.
- D) *Right to Enter.* The designated City official shall have the right to enter upon any premises at any reasonable time for the purposes of making periodic inspection of a building's exterior and/or premises or investigating alleged violations as are necessary to enforce these regulations.
- E) *Compliance Information Required.* Whenever the designated City official, on the basis of a sworn complaint from any person or on the basis of other information available to the official, has reason to believe that a violation of these regulations exists, they may require an owner/operator to provide information as may be necessary to determine the existence or extent of any violation.
- F) *Notice of Violation.* Upon determining a violation, the City shall issue a written notice of violation to the owner/operator of property upon which a violation of these regulations exists. Such notice shall set out the grounds upon which the notice is based, including the specific code section or sections at issue. Notices shall conform to the requirements of Section 54.005, Notices to Certain Property Owners, of the LGC.
- G) *Correction of Violation.* Upon notification of a violation, the person responsible for the violation shall correct the violation immediately.

**1.1.1.12 INTERPRETATIONS**

Unless the context clearly indicates otherwise, the following rules apply in interpreting this Ordinance:

- A) Words used in the present tense include the future tense.
- B) Words in the singular include the plural, and words in the plural include the singular.
- C) The word "lot" includes the words "building site," "site," "plot" or "tract."
- D) The word "shall" is mandatory and not discretionary.
- E) The word "may" is optional and discretionary.
- F) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."



**1.1.1.13 EFFECT ON EXISTING PERMITS AND LITIGATION**

A) Existing permits. This Ordinance is not intended to abrogate or annul any permits issued before the effective date of the provisions of this Ordinance.

B) Preserving rights in pending litigation and violations under existing ordinances. By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this Ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending may proceed in all respects.

C) Completion of existing buildings. Nothing in these regulations nor in any amendments hereto shall require any change in the plans, construction or designated use of a building which shall be completed in its entirety within one (1) year from the effective date of the provisions of this Ordinance, provided such building either was legally under construction at the time of the effective date of the provisions of this Ordinance or was authorized by building permit before the effective date of the provisions of this Ordinance, and further provided construction shall have been started within ninety (90) days from the effective date of the provisions of this Ordinance.

**1.1.1.14 ESTOPPEL/WAIVER**

The failure of the City of Double Horn to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel of any subsequent violation of this Ordinance.

**CHAPTER 2 - DISTRICTS AND ZONING DISTRICT MAP**

**1.1.2.1 ZONING DISTRICTS ESTABLISHED**

In order to regulate the use of land and buildings, and to regulate the location, height, bulk and size of buildings and other structures built on the land, the following districts are hereby created:

**Figure 1.1.2.1**

<b>ABBREVIATED DESIGNATION</b>	<b>ZONING DISTRICT NAME</b>
A	Agricultural
OS/P/R	Open Space/Parks/Recreational
SF-1	Single Family 1
C	Commercial District

I	Industrial District
NR	Non-Residential Buffer District

**1.1.2.2 ZONING USE SUMMARY TABLE**

The following table presents the zoning district classifications and a summary of the permitted and conditional uses within those classifications. Uses are listed as being permitted (P), permitted by conditional use permit (C), Restricted (R) and not permitted (as signified by "--").

**If a use is not listed in the Zoning Use Summary Table, the use is prohibited. An applicant may request an amendment to the Zoning Ordinance to request the addition of an unlisted use.**

**Figure 1.1.2.2**

**ZONING USE SUMMARY TABLE**

**P = Permitted Use    C = Conditional Use    -- = Not Permitted    \* = Special Regulations**

RESIDENTIAL USES	RESIDENTIAL DISTRICTS			NON-RESIDENTIAL DISTRICTS		
	A	SF-1	OSPR	C	I	NR
Single family (SF) detached dwelling	P	P	--	--	--	--
Home based business within a SF dwelling	P	P	--	--	--	--
Single family - zero lot line	--	--	--	--	--	--
Single family attached - townhomes	--	--	--	--	--	--
Duplex	--	--	--	--	--	--
Multi-family dwelling	--	--	--	--	--	--
Real estate model home	--	C	--	--	--	--
Vertically mixed use multifamily	--	--	--	--	--	--

residential and retail						
Bed and Breakfast	--	--	--	--	--	--
Manufactured home detached dwelling park	--	--	--	--	--	--
Guest house, caretaker or security quarters for SF dwelling	P	P	--	--	--	--
Accessory structure with restrictions	P	P	--	--	--	--
SF parking garage	P	P	--	--	--	--
SF swimming pool	P	P	--	--	--	--
SF hobby shed	P	P	--	--	--	--
SF horse stable, private	P	P	--	--	--	--
SF tennis court	P	P	--	--	--	--
	<b>RESIDENTIAL DISTRICTS</b>			<b>NON-RESIDENTIAL</b>		
<b>RETAIL, COMMERCIAL, PERSONAL SERVICE USES</b>	<b>A</b>	<b>SF-1</b>	<b>OSPR</b>	<b>C</b>	<b>I</b>	<b>NR</b>
Amusement establishment	--	--	--	C	--	--
Animal boarding, kennel or shelter	C	--	--	--	--	--
Automobile fueling station	--	--	--	C	--	--
Automobile parts sales	--	--	--	C	--	--
Automobile service establishment	--	--	--	C	--	--
Bakery/confectionery retail establishment	--	--	--	C	--	--

Building material sales	--	--	--	C	--	--
Business service and sales	--	--	--	P	--	--
Carwash	--	--	--	C	--	--
Cash and retail lending service establishment Cash and retail lending service establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street	--	--	--	C	--	--
Commercial greenhouse or nursery	C	--	--	--	--	--
Commercial stable	--	--	--	--	--	--
Dry-cleaning retail establishment	--	--	--	C	--	--
Establishments > 75% revenue from alcohol sales	--	--	--	C	--	--
Exercise and sports establishment	--	--	--	C	--	--
Financial institution	--	--	--	P	--	--
Home and residence services	--	--	--	P	--	--
Hotel	--	--	--	C	--	--
Insurance	--	--	--	P	--	--
Medical and state licensed health services	--	--	--	P	--	--
Merchandise rental	--	--	--	C	--	--

Nursery, garden, landscape material sales	--	--	--	C	--	--
Outdoor or drive-thru sales or service	--	--	--	C	--	--
Personal services	--	--	--	P	--	--
Pet grooming and care services	--	--	--	C	--	--
Pharmacy	--	--	--	P	--	--
Private clubs and organizations (indoor)	--	--	--	C	--	--
Professional service and sales	--	--	--	P	--	--
Recreational vehicle park	C	--	--	--	--	--
Real estate	--	--	--	P	--	--
Restaurant	--	--	--	P	--	--
Retail sales	--	--	--	P	--	--
Retail storage facilities	--	--	--	C	--	--
Second-hand/used goods/pawn shop Provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street	--	--	--	C	--	--
Tattoo service and similar body artwork Tattoo service and similar body artwork establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the	--	--	--	C	--	--

proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street						
Technical service and sales	--	--	--	P	--	--
Vapor smoking services	--	--	--	C	--	--
Vehicle display and sales	--	--	--	--	--	--
Vehicle parking garage	--	--	--	--	--	--
Vertically mixed-use retail and multifamily residential	--	--	--	--	--	--
Veterinarian service, animal clinic Veterinary clinics and kennels without outdoor runs, provided that no kennel or building shall be closer than fifty (50) feet to any residential district	C	--	--	C	--	--
	<b>RESIDENTIAL DISTRICTS</b>			<b>NON-RESIDENTIAL</b>		
<b>INSTITUTIONAL &amp; CIVIC USES</b>	<b>A</b>	<b>SF-1</b>	<b>OSPR</b>	<b>C</b>	<b>I</b>	<b>NR</b>
Cemetery or mausoleum	P	--	--	--	--	--
Church or place of worship	P	P	--	C	--	--
Community recreational use	--	C	P	--	--	--
Community swimming pool	--	--	P	--	--	--
Country club	--	--	C	--	--	--
Day care and educational facility - privately-owned	C	--	--	P	--	--
Educational facility - public	P	P	--	--	--	--

Federal, State or City owned or controlled facilities	P	P	--	P	--	--
Franchise-holding facilities and utilities	P	P	P	P	P	--
Golf course	--	C	C	--	--	--
Municipal uses	P	P	P	P	--	--
Nursing home or assisted living facility	--	--	--	--	--	--
Open Space Preserves	P	--	P	P	--	--
Public parks and playgrounds	--	--	P	P	--	--
Public recreational facilities	--	--	P	P	--	--
Wind energy, utility or telecommunication tower	C	--	--	--	--	--
	<b>RESIDENTIAL DISTRICTS</b>			<b>NON-RESIDENTIAL</b>		
<b>AGRICULTURAL USES</b>	<b>A</b>	<b>SF-1</b>	<b>OSPR</b>	<b>C</b>	<b>I</b>	<b>NR</b>
Animal husbandry, livestock	P	--	--	--	--	--
Crop cultivation, forestry, farming	P	--	--	--	--	--
Dairy farm	P	--	--	--	--	--
Equestrian Activity (See SF-1 for special regulations)	P	P*	--	--	--	--
Wholesale plant nursery	P	--	--	--	--	--
Horse stables, riding academies and equestrian boarding	P	--	--	--	--	--

	RESIDENTIAL DISTRICTS			NON-RESIDENTIAL		
	A	SF-1	OSPR	C	I	NR
<b>INDUSTRIAL USES</b>						
Auto, tool or equipment rental	--	--	--	P	P	--
Boat/RV Storage	--	--	--	P	P	--
Bottling operations	--	--	--	--	--	--
Broadcasting stations and studios, radio and television	--	--	--	P	P	--
Commercial cleaning or laundry plant	--	--	--	--	P	--
Concrete batch plant - Temporary	--	--	--	--	--	--
Concrete batch plant – Permanent	--	--	--	--	--	--
Asphalt batch plant	--	--	--	--	--	--
Data center and software design	--	--	--	P	P	--
Information assembly, broadcasting, carriers	--	--	--	P	P	--
Information data processing	--	--	--	P	P	--
Information distribution, publication, production	--	--	--	P	P	--
Information telecommunication, sellers	--	--	--	P	P	--
Machinery, heavy equipment, truck sales and service	--	--	--	--	P	--
Manufacturing – Apparel, leather and other finished products	--	--	--	--	--	--



Manufacturing – electrical, appliance, instrument, controller	--	--	--	--	--	--
Manufacturing - device, parts, vehicle	--	--	--	--	--	--
Manufacturing - die, tooling, equipment, machinery	--	--	--	--	P	--
Materials bending, cutting, machining, molding, welding	--	--	--	--	P	--
Medical or scientific laboratory	--	--	--	P	P	--
Open storage and open processing operations	--	--	--	--	--	--
Outside sales and storage	--	--	--	--	P	--
Packaging of parts and materials prev manufactured	--	--	--	--	--	--
Parts assembly, materials sorting prev manufactured	--	--	--	--	--	--
Printing and publishing industries	--	--	--	P	P	--
Professional, scientific and technical services	--	--	--	P	P	--
Rock Crusher – Standard Tier 1	--	--	--	--	--	--
Rock Crusher – Standard Tier 2	--	--	--	--	P	--
Rock Quarry- less than 150 acres	--	--	--	--	P	--
Storage of flammable liquids and materials	--	--	--	--	C	--
Trade contractor office and dispatch	--	--	--	--	--	--
Truck repairs and service	--	--	--	--	P	--

Trucking and other courier services	--	--	--	--	P	--
Warehousing and distribution facilities	--	--	--	--	P	--
Wholesale enterprises w/o materials storage and distribution	--	--	--	--	P	--
Walls, berms, sound attenuation structures, screening, landscaping, open space, seismic and noise monitoring equipment, trails, other mitigation structures or land uses designed to mitigate impact of industrial land uses on residential land uses						*

The table does not supersede the zoning ordinance. There may be restrictions for permitted and conditional uses.

**1.1.2.3 ADOPTION OF THE OFFICIAL ZONING DISTRICT MAP**

A) The boundaries of each zoning district are delineated and shown on the official Zoning District Map of the City of Double Horn, as amended from time to time. The official Zoning District Map, together with all notations, references, dimensions, designations and other information shown on the map, is adopted and made part of this Ordinance, as amended, by reference.

B) The official Zoning District Map shall be stored, maintained, and kept current by the City Secretary.

**1.1.2.4 AMENDMENTS TO THE OFFICIAL ZONING ORDINANCE AND ZONING DISTRICT MAP**

A) No change or amendment to the official Zoning District Map shall be authorized without the approval of a zoning application.

B) The application shall be processed in accordance with the requirements of this Ordinance, as amended. Each application for amendment, supplement or change to the provisions of this Ordinance shall be made in writing on the City’s required form and shall be filed with the City Secretary along with the appropriate fee in accordance with the Annual Fee Schedule for administration of the Zoning Application. An applicant may withdraw an application, without prejudice, up until the item is posted for a public meeting or hearing before the Planning and Zoning Commission or City Council. Once posted for a public meeting or hearing, an applicant does not have any right or entitlement to withdraw or table an application.

C) No change to the official Zoning District Map shall be authorized or become effective without final action of the City Council or by order of a court of competent jurisdiction.

- D) No zoning shall be finalized unless annexation of the property for which the zoning is sought has been completed.
- E) The City Council may from time to time amend, supplement or change by Ordinance the boundaries or the Zoning District Map or of the land use regulations and restrictions of this district or any other regulation or provision of this Ordinance.
- F) The Planning and Zoning Commission shall hold a public hearing on a proposed adoption of or amendment to a zoning regulation or zoning district boundary before submitting a report to the City Council. Additionally, upon compliance with all applicable notice requirements, the Planning and Zoning Commission and the City Council may hold a joint public hearing.
- G) Before the fifteenth (15th) day before the date of the hearing, notice of the time and place of the public hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Double Horn.
- H) In addition to the general notice above, at least ten (10) days before the hearing date, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within two hundred (200) feet of the property on which the change in zoning classification is proposed.
- I) In addition one (1) sign shall be posted on the property, at each public or private road frontage of the property, notifying the public that a proposed change is pending and more information is available by contacting the City of Double Horn.
- J) A written recommendation of the Planning and Zoning Commission shall be forwarded to the City Council. In the event that the Planning and Zoning Commission recommends that a proposed change to a regulation or boundary be denied, a vote of at least three-fourths (3/4) of all of the members of the City Council shall be required to overrule such recommendation.
- K) After public notice and after receipt of the Planning and Zoning Commission recommendation, the City Council shall hold a public hearing in regard to the proposed application, consider such application, and may take such action as determined appropriate with regard to the application.
- L) An application that has been denied, without prejudice, by the City Council may be resubmitted at any time for reconsideration by the City Council. A new filing fee must accompany the request. The City Council may deny any application with prejudice. If an application has been denied with prejudice the application may not be resubmitted to the City for one (1) year from the original date of denial. However, a changed application may be submitted at any time.

#### **1.1.2.5 ZONING DISTRICT BOUNDARY RULES**

- A) The following rules shall apply in determining uncertain boundaries of a district as shown on the official Zoning District Map:
- 1) Where a boundary follows a public street or alley, the centerline of the street shall be the boundary.
  - 2) Where a boundary follows a platted lot line, the lot line shall be the boundary.
  - 3) Where a boundary follows a city limit line, the city limit line shall be the boundary.

- 4) Where a boundary follows a railroad or utility line, the boundary is the established center line of the railroad or utility right-of-way. If no centerline is established, the boundary is midway between the right-of-way lines.
  - 5) Where a boundary follows the centerline of streams, rivers, canals, lakes or other bodies of water, the boundary is the centerline. The centerline is interpreted as being midway between the shorelines of the body of water. If the centerline changes, the boundaries are construed as moving with the centerline.
  - 6) In cases where district boundary lines are indicated as approximately paralleling a street, alley, right-of-way, easement line or other feature existing at the time of the enactment of this Ordinance, as amended, they shall be construed as parallel to or extensions of the street, alley, right-of-way, easement line, or other feature, unless otherwise specifically dimensioned on the official Zoning District Map.
  - 7) In instances where district boundary lines divide a parcel of non-subdivided property, the precise location of the district boundary shall be determined by the use of the scale appearing on the official Zoning District Map, unless the boundary is indicated by a specific dimension on the official Zoning District Map.
  - 8) Where any public right-of-way is officially vacated or abandoned, the land use district regulations applied to abutting property shall extend to the former centerline of the vacated or abandoned right-of-way.
- B) The Planning and Zoning Commission shall determine the location of the district boundary when uncertainty of boundaries exist that cannot be resolved by referencing Section 1.1.2.5(A) above. Any person who is aggrieved by that determination may appeal to the City Council. Appeals shall be made in writing to the City Council within 10 days of the decision.

#### **1.1.2.6 ZONING ANNEXED TERRITORY**

- A) All territory annexed into the City shall be classified as A (Agricultural District), until zoning is established by the City Council. The procedure for establishing zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations.
- B) In an area classified as A (Agricultural District) upon annexation:
  - 1) No person shall erect or construct any building or structure in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the Building Official.
  - 2) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in the A (Agricultural District).

### **CHAPTER 3 - DEFINITIONS**

1. Abutting or Adjacent Property Lines: Property lines adjacent and in common for a minimum distance of twenty-four (24) feet or district lines.
2. Accessory Use, Unit, Structure, or Building:

- A) A building, structure, or use which is subordinate to and serves a primary use or principal structure;
  - B) A building, structure, or use which is subordinate in footprint on the lot, subordinate in area, extent, use or purpose to the primary use, building or structure served;
  - C) A building, structure, or use which contributes to the comfort, convenience, or necessity of occupants of the primary use served;
  - D) A building, structure, or use which is located within the same zoning district as the primary use; or
  - E) A building, structure, or use which in residential districts is not used for commercial purposes other than legitimate home occupations/home based business, and is not rented to or utilized by other than bona fide servants employed on the premises or members of the family of the occupant(s) of the principal structure. Examples of accessory buildings, structures, or uses include, but are not limited to private garages, greenhouses, servant's quarters, tool sheds, hobby shed, storage buildings, greenhouses, or bathhouses adjoining a swimming pool, swimming pool, sports court and tennis court. Persons are related within the meaning of this provision if they are related within the first or second degree of consanguinity or affinity.
    - 1) Attached accessory structure - a structure that shares an attached or common roof with the primary structure.
    - 2) Detached accessory structure - a structure that does not share an attached or common roof with the primary structure.
    - 3) Single family detached dwelling
3. Agricultural uses: Agricultural uses include activities that raise, produce or keep plants or animals, including structures related to this use. Examples include but are not limited to breeding or raising of fowl or other livestock animals, including horses and equestrian events and activities; dairy farms; stables; riding academies; equestrian boarding facilities; farming, truck gardening, forestry, tree farming; wholesale plant nurseries, and uses customarily used in conjunction with agricultural uses such as home-based businesses, guest houses or bunk houses, kennels, pens, corrals, barns, equipment storage, and silos.
4. Alley: An "alley" is a public right-of-way or thoroughfare which is not less than Eighteen Feet (18') wide and affords only a secondary means of access to abutting property.
5. Alter: To change the size, shape or physical outline, copy, nature of message, intent or type of an entity including signs and buildings.
6. Animal Boarding: See Kennel.
7. Apartment: An "apartment" is a room or group of rooms used as a dwelling for one family or household being one (1) dwelling unit, said unit being equipped for the preparation of food.
8. Apartment Building: A building or portion of a building used or intended to be used as a dwelling for three (3) or more families or households, each household living independently of each other, with each unit equipped for preparation of food.
9. Barn, Commercial or Private: See Stable, Commercial or Private.
10. Basement: A story (or portion of a story) partly or totally below ground level, with less than

one-half of its height (measured from floor to ceiling) above ground level.

11. Bed and Breakfast Inn:

A) Traditional. A residential structure where three (3) or fewer rooms are rented to transient paying guests on an overnight basis with no more than one meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed six (6) at any one time. The owner-operator of a traditional Bed and Breakfast resides at that place. This is classified as a normal home occupation.

B) Non-traditional. A residential structure where more than two (2) rooms are rented to transient paying guests on an overnight basis with no more than one (1) meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed four (4) at any one time. The owner-operator may or may not reside there.

12. Block: A tract of land bounded by streets (or street rights-of-way) or a combination of streets and public parks.

13. Brick: Includes kiln fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW, can include concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634; minimum thickness of two and one quarter inches when applied as a veneer, and shall not include unfired clay or shale brick.

14. Buffer Zone or Non-Residential Buffer Zone: An unimproved area required between adjacent property lines or adjacent structures.

15. Building: Any structure which is affixed to the land, has one (1) or more floors and a roof, and is bounded by either open area or the lot lines, and is designed for human use or habitation, shelter for animals, chattels, records or other moveable property[.] A building shall not include such structures as billboards, fences or communication towers or structures with interior surfaces not normally accessible for human use, such as tanks, smoke stacks, grain elevators, and oil cracking towers or similar structures.

16. Building Line: The line established by the required yard.

17. Building Official: Is the officer or other designated authority charged with the administration and enforcement of the City's building codes, or the duly authorized representative.

18. Building Setback Line: The line defining an area on the lot between the street right-of-way and all other property lines and the building line within which no building or structure shall be constructed, encroach or project except:

- (a) Sidewalks;
- (b) Fences that conform to the Fence Ordinance regulations;
- (c) Driveways;
- (d) Retaining walls;
- (e) Fountains and other landscaping elements;
- (f) Light poles if fed from underground utilities;
- (g) Flag poles;

- (h) Mail boxes; and
  - (i) Signs that conform to the City's ordinances and regulations on signs.
19. Building Front Setback Line: A line parallel to the street right-of-way line, which the building faces and from which it takes its primary access.
  20. Building Rear Setback Line: A line parallel to an adjacent lot, alley or street in the case of double frontage lots, which the building backs up to and from which it has its rear or secondary access.
  21. Building Side Setback Line: A line parallel to an adjacent lot or street right-of-way on a corner lot, up to which the building sides.
  22. Cemetery or Mausoleum: A use, structure or place designated for burial of the dead.
  - 23A. City. The City of Double Horn, Texas, together with all its governing and operating bodies.
  - 23B. City Council. The governing and legislative body of the City of Double Horn, Texas.
  - 23C. City Engineer. The duly authorized Engineer of the City of Double Horn.
  - 23D. City Mayor; mayor. The duly elected or appointed, as the case may be, mayor for the City of Double Horn, Texas.
  - 23E. City Zoning Administrator; zoning administrator. That person appointed by the Mayor and City Council to manage City Planning, Zoning and Subdivision reviews.
  - 23F. Civic Center: A use, building or structure that is owned, managed or operated in whole or in part by a public governmental agency for governmental, cultural, recreational, athletic, convention or entertainment uses and activities.
  24. Common Area or Common Property: A parcel or parcels of land, together with the improvements to the land, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a subdivision[.]
  25. Community Home: A building, structure or use providing food and shelter, personal guidance, care, rehabilitation services or supervision for not more than 6 disabled persons, regardless of their legal relationship to one another and 2 supervisory personnel. A group home is a community-based residential home operated in accordance with the Texas Human Resource Code Chapter 123 and the Texas Department of Mental Health and Mental Retardation Act. A group home is a use by right that is authorized in any district zoned residential.
  26. Conditional Use: A use, building and structure allowed upon issuance of a permit after additional review to ensure compatibility with existing zoning restrictions and adjacent land uses. A Conditional Use permit shall contain such terms and conditions as may be necessary to mitigate the impact of the proposed use. Issuance of a Conditional Use permit is at the discretion of the City Council.
  27. Concrete Batch Plant - Temporary: An On-site manufacturing plant utilized for a limited period of time as allowed in this Ordinance where concrete is mixed before being transported to a construction site ready to be poured.
  28. Concrete Batch Plant – Permanent: A permanent manufacturing facility for the production of concrete.
  29. Asphalt Batch Plant: A permanent or temporary manufacturing facility for the production of

asphalt (asphaltic concrete).

30. Court (for building purposes): An open, unoccupied space bounded on more than two (2) sides by the walls of a building.
31. Church: A use, building or structure used for religious activities, education and worship.
32. Day Care - Commercial: Any facility or premises where a total of seven (7) or more children under fourteen (14) years of age, and/or elderly adults, regularly attend for all or a portion [of] the twenty-four (24) hour day for purposes of custody, care, or instruction; and which children or elderly adults are not members of the immediate nuclear family of any natural person actually operating the facility or premises.
33. Day Care - In-Home: Any occupied private residence utilized for purposes of custody, care, or instruction; and which persons are not members of the immediate nuclear family living in the residence, pursuant to and as further defined by Chapter 42 of the Texas Human Resources Code.
34. District: Any section or area of the City of Double Horn for which the City Council has adopted zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, the intensity of use, and other land use matters.
35. Drive-In or Drive-Through Service or Sales: A retail transaction or the serving of a patron while in a motor vehicle or the permitting of consumption of food or drink while in a motor vehicle parked on the premises.
36. Duplex Dwelling Unit: A residential structure providing complete, independent living facilities for two (2) separate families, including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit.
37. Dwelling: Any building or portion of a building constructed for use by or occupied exclusively by one (1) family with culinary and sanitary conveniences provided for their use.
38. Dwelling Unit (DUs): A structure, constructed on the site of its location, designed for a person or family to live in, in an individual or private state, and to be occupied as a home for an occupant, or the occupant and the family, if any, and not designed to be occupied by more than one (1) family.
39. Equestrian activity: The breeding, boarding, rental, riding or training of horses or the teaching of equestrian skills for private personal use by a property owner.
40. Erect: To build, construct, attach, hang, [hang] place, suspend or affix, and when used in reference to signs, such term shall also include the painting of signs on the exterior surface of a building or structure, and shall also include the painting or affixing of signs to the exterior or interior surface of windows and shall include signs located interior to a building but readily visible from the exterior.
41. Exterior Architectural Feature: Any building or portion of a building that, due to its design, adornment, decoration or unique features, is of interest to the general public as an important asset to the community.
42. Family: Any number of individuals occupying a dwelling unit and living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship; the term includes a single individual.
43. Farm Animals: Domestic animals generally used or raised on a farm for profit, including but



not limited to cattle, horses, cows, sheep, bulls, stallions, jacks, swine, goats and all domesticated fowl used for eggs or food.

44. ***Floodplain:*** Property that has a history of inundation or is determined to be subject to flood hazard, specifically identified by the Federal Emergency Management Agency on its flood hazard boundary maps (FHBM) for the City of Double Horn. Within the floodplain, no development or alteration of the floodplain due to dumping, excavation, storage, filling or mining operations shall be conducted without a development permit approved by the City of Double Horn. Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding.

45. ***Floor Area Ratio:*** The ratio of the gross floor area of a building or buildings in relations to the required lot area. The floor area ratio (FAR) may be expressed as a percent of the lot area.

46. ***Frontage:*** All of the property on one side of a street between two intersecting streets (crossing or terminating) measured parallel along the line of the street, or if the street is a dead-end, then such term shall mean all of the property abutting on one side between an intersecting street and the dead-end of the street; additionally, “frontage” shall mean all of the property on one side of a street between two lot lines.

47. ***Garage, Private:*** An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than a two (2) ton capacity.

48. ***Garage, Public:*** A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

49. ***Height:*** The vertical distance of a building, structure or portion thereof, measured from the mean level of the ground surrounding the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

50. ***Hobby Shed:*** An accessory use and structure not used for commercial purposes nor rented to others as defined under Accessory Use item (5).

51. ***Home Based Business:*** A home occupation or use for profit or non-profit involving business, art or hobby activities including the selling to, production of, and provision of services to others not part of the on-site single-family residential use.

52. ***Home Occupation:*** Any occupation or activity carried on or occurring in a Dwelling Unit by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate as allowed by the City’s ordinances and regulations on signs attached to the building, and no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and, no mechanical equipment is used except that which is of a type similar in character to that normally used for purely domestic or household purposes. Retail sales from the home to walk up or drive up customers, cafes, or diners and barber or beauty shops are not considered a home occupation. Examples of home occupations include crafts; woodworking; dressmaking; custom cakes or other small scale catering that uses no commercial type or size equipment; professional services such as bookkeeping, handling of telephone orders, technology or electronic communication; Traditional Bed and Breakfasts limited to three (3) rooms for rent, and day care for six (6) or fewer persons.

53. Hotel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging where entrance to reach room is from a completely enclosed area and which structure may also contain a restaurant, conference rooms and retail uses or personal service uses.
54. Kennel: Any location where four (4) or more dogs or cats aged six (6) months or older and other household pets are groomed, bred, boarded, trained or sold. Pet retail stores where animals are offered for sale as a secondary use, and where grooming, small animal medicine, surgery and/or training is conducted as secondary to the retail selling of pet goods and supplies are not included within the definition of kennel.
55. Loading Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store a one (1) ton truck or larger truck and a passenger bus, with a paved surface driveway connecting the loading space with the public street or alley and permitting ingress and egress.
56. Lot: A lot is the smallest physical and undivided tract or portion of land as shown on a duly recorded plat, having frontage on a public street.
57. Lot, Corner: A lot that has an interior angle of less than one hundred and thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curbs at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred and thirty-five (135) degrees.
58. Lot Coverage: The percent of the lot covered with structures as compared to open space. Structures include all buildings, parking lots and driveways. See definition of open space.
59. Lot, Double Frontage: A lot having a frontage on two (2) parallel streets.
60. Lot, Interior: A building lot other than a corner lot.
61. Lot Area: The area of a lot between lines, including any portion of an easement that may exist within such lot lines.
62. Lot of Record: A lot which is part of a subdivision, the map or plat of which has been recorded in the office of the County Clerk of Burnet County; or a parcel of land, the deed of which was recorded in the office of the County Clerk of Burnet County.
63. Manufactured Home: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling and shall have a permanent concrete foundation, connected to public water and sanitary sewer utilities, and includes plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 Code of Federal Regulations, Section 3282.8(g). The manufactured home is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does not have wheels or axles permanently attached to its body or frame.
64. Manufactured Home Lot: A parcel of land in a manufactured home park for the placement of a single HUD-code manufactured home and the exclusive use of its single-family occupants.
65. Manufactured Home Park: A parcel of land designed as an area for manufactured homes to

be installed as residences containing individual lots of record for the permanent placement of a manufactured home on an individual lot of record with roads, utilities, and drainage in accordance with all applicable provisions of the City's Code of Ordinances and other regulations governing a manufactured home park.

66. Model Home: A dwelling unit within a residential development used for the purpose of display of amenities and marketing the sale of homes within the residential development and functioning as a sales office until sold to a third-party buyer.

67. Motel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging in which the rooms are directly accessible from an outdoor parking area.

68. Multi-Unit Dwelling: A residential structure providing complete, independent living facilities for three (3) or more families or households living independently of each other and including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit. Condominiums are included in this definition.

69. Nonconforming Use: The use of land or a building, or portion thereof, which does not conform with the use regulations of the district in which it is situated, and which use was legally in existence prior to the effective date of this Ordinance and any subsequent amendments.

70. Nursing Home: A building, or portion thereof, used or designed for medical services for the housing of the aged, and/or mentally or physically challenged persons who are under daily medical, psychological, or therapeutic care; including assisted living centers; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons.

71. Occupancy: The use or intended use of land or buildings by owners, occupants, proprietors or tenants.

72. Off-Street Parking: An area for storage of an automobile that is entirely on private property.

73. Open Space: The part of a building lot, including courts or yards, which are open and unobstructed from its lowest level to the sky, which is accessible to all residents or users upon a building lot, which is not part of a roof, driveway, parking area, and which does not include any structures.

74. Open Space Reserve: Open space reserve shall mean an open area, a minimum size of five (5) acres, which is designed and intended to be used for outdoor recreation. An area of usable open space reserve shall include Texas native or natural landscaping, walks, water features and decorative objects such as artwork or fountains. Open space reserves shall not include recreational equipment or recreational sports fields, or buildings, except those buildings designed specifically for maintenance of the open space reserve. Open space reserves may include parking areas and driveways.

75. Outdoor Storage: The keeping, in an unenclosed area, of any goods, items, material or merchandise in the same place for more than twenty-four (24) hours and not actively being sold.

76. Parking Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store one (1) automobile, with a paved surface driveway connecting the parking space with the public street or alley and permitting ingress and egress of an automobile.

77. Place of Worship: A building or structure, or group of buildings or structures that by design

and construction are primarily intended for conducting organized religious services and associated accessory uses.

78. Planned Unit: A land area, which (1) has individual building sites and common property such as a park and (2) is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property. The ownership of the common property may either be public or private.

79. Planned Unit Development: A single planned unit as initially designed; or such a unit as expanded by annexation of additional land areas; or a group of continuous planned units, whether as separate entities or merged into a single consolidated entity.

80. Planning Commission: The Planning and Zoning Commission of the City of Double Horn, Texas, or when no commission is appointed then the City Council shall serve as such body.

81. Recreation Vehicle: A vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, and camping trailer, but shall not include a mobile home or manufactured home.

82. Recreational Vehicle Park: Any area or tract of land where two or more recreational vehicle lots or spaces are rented or held for rent.

83. Repair: The reconstruction or renewal of any part of an existing building for the purposes of maintenance. The word repair shall not apply to structural alterations.

84. Right-of-Way: The area on, below, or above a public or private roadway, highway, street, public sidewalk, alley, waterway, or utility easement.

85. Roof Line: The height which is defined by the intersection of the roof of the building and the wall of the building. For mansard-type roofs, the roof line shall be defined as the top of the lower slope of the roof. Roofs with parapet walls completely around the building and not exceeding four (4) feet in height may be considered as the roof line.

86. Rock Crusher – Standard Tier 1: means an establishment engaged in crushing rock or stone milling with a crusher feed hopper max 125 tons/hour throughput which cannot be located at a quarry or mine and receiving a Tier 1 permit from the Texas Commission of Environmental Quality (TCEQ). This type of Rock Crusher can only be operated for total of 360 hours or no more than 45 non-consecutive calendar days on site. The crusher and all associated facilities and sources shall be located no less than 200 feet from the nearest property line and is limited to one primary crusher, two conveyors, and two screens. The crusher and all associated sources operating under a Standard Tier 1 permit issued by TCEQ shall neither locate (except for crushers in nonoperational storage that have not commenced construction as considered under the Texas Clean Air Act (TCAA)) nor operate on the same site as any concrete batch plant or asphalt batch plant. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation.

87. Rock Crusher – Standard Tier 2: means an establishment engaged in crushing rock or stone milling with a crusher feed hopper max 250 tons/hour throughput and receiving a Tier 2 permit from the Texas Commission of Environmental Quality (TCEQ). The crushers and all associated facilities and sources shall be located no less than 300 feet from the nearest property line and shall be located at least 550 ft. from any concrete batch plant or asphalt batch plant. If this distance cannot be met, then the crusher authorized under a Standard Tier 2 permit issued by TCEQ shall not operate at the same time as a concrete batch plant or asphalt batch plant. The equipment

authorized at this site shall be limited to one primary crusher, one secondary crusher, two screens, and any associated conveyors. The owner or operator shall remove the crusher and associated equipment from the site within 24 hours of ceasing operation.

88. Rock Quarry: means an open pit from which building stone, sand, gravel, mineral or fill is taken to be processed for commercial purposes. The Rock Quarry land use shall have the same setback requirements as the Rock Crusher – Standard Tier 1 and must be 150 acres or less.

89. Site Plan: A Plan approved by the City prior to commencement of any development within commercial, non-residential or industrial districts showing use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures to be constructed and demonstrating compliance with the requirements of this ordinance.

90. Servants Quarters: Living spaces for domestic servants, gardeners or childcare, adult /elder care or health specialists that have the same utility connections as the main house.

91. Setback or Building Line: A line, which marks the setback distance from the property line and establishes the minimum required front, side, or rear yard space of a lot.

92. Stable, Commercial: Commercial barn or stable shall mean a boarding facility used for the rental of stall space or for the sale or rental of horses, mules or similar large animals.

93. Stable, Private: Private barn or stable shall mean a facility used solely for the owner's private purposes for the boarding, sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

94. Storage, Self Service: A structure containing separate, individual, and private storage spaces of varying sizes.

95. Storage Garage: A "storage garage" is any premises and structure used exclusively for storage of more than five (5) automobiles.

96. Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.

97. Street: A way for vehicular traffic or parking, whether designated as a highway or as any of the following types:

A) Residential Street: serves a residential neighborhood and may be a cul-de-sac, loop or short street.

B) Collector Street: serves to collect traffic from multiple residential streets.

C) Arterial Street: a through traffic street, generally aligned in the direction of major traffic movement carrying such traffic into or out of the city.

D) Parkways and Boulevards: across-city traffic thoroughfares, for movement of great amounts of traffic.

E) Commercial Streets: serve both business and industrial areas.

98. Structural Alterations: Any change which would tend to modify the life of a supporting member of a structure such as bearing walls, columns, beams, or girders.

99. Structure: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

100. Townhouse: A single-family dwelling unit constructed in a series or a group of attached units with property lines separating such units, usually with the dividing wall between units falling on the property line.

101. Transmission Tower: A wireless telecommunications support structure designed primarily of the support and attachment of a wireless telecommunications facility. Transmission towers include:

A) Monopole Tower - A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.

B) Lattice Tower - A self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications antenna and/or related equipment;

C) Guyed Tower - An open, steel frame structure that requires wires and anchor bolts for support.

D) Stealth Tower - A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, that is camouflaged to be unrecognizable as a telecommunications facility, designed to support or conceal the presence of telecommunication antennas and blends into the surrounding environment.

102. Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this Ordinance.

103. Use Permits: Permits authorized by the City Council upon recommendation of the Planning and Zoning Commission allowing certain uses in zoning districts.

A) Conditional Uses are uses which are generally compatible with those uses permitted by right in a zoning district, but which require individual review of their location, design, configuration, density and intensity. These are granted to the land and will continue to be valid with sale or transfer of property.

B) Restricted Uses are uses located in the Nonresidential District which are necessary to mitigate the impact of Industrial uses adjacent to Residential Districts.

104. Utility Facility: Infrastructure services and structures necessary to deliver basic utilities essential to the public health, safety, and welfare. This includes all lines and facilities provided by a public or private agency and related to the provision, distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, information, telephone cable, electricity and other services provided by the utility. This does not include Wireless Telecommunication Facilities.

105. Variance: A legal modification in the application of specific Zoning District regulations such as yard, lot width and yard depth, signs, set back and off-street parking, and loading regulations granted due to the special conditions or circumstances peculiar to a particular parcel of property.

106. Wireless Telecommunication Facility: An unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas, and related equipment.

107. Yard: An open space open from its lowest point to the sky unobstructed at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure

from the ground upward, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves and as otherwise provided herein.

108. Yard, Front: A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building including any projections of the usual uncovered steps, uncovered balconies, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

109. Yard, Rear: A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building including any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

110. Yard, Side: A yard between the main building and side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

Definitions not expressly described herein are to be construed in accordance with customary usage in municipal planning and engineering practices. Words used in the masculine or feminine shall also be construed to mean the other.

111. Zoning Application. An application for a tentative or final development plan, site development plan or site plan.

112. Zoning Regulations. The City of Double Horn Zoning Ordinance, as amended.

## **CHAPTER 4 - REGULATIONS APPLICABLE TO ALL DISTRICTS**

### **1.1.4.1 APPLICABILITY**

The regulations in this Chapter shall apply to all zoning districts in this Ordinance, as amended.

### **1.1.4.2 GENERAL**

A) No land or structure shall be used, nor intended for any use, other than those uses permitted in the district where the land or structure is located.

B) No structure shall be erected, reconstructed, enlarged, structurally altered, or moved in such a manner as to evade conformity with height, bulk, lot area, use and other regulations for the district where the structure is located.

C) No yard provided adjacent to a structure for the purpose of complying with provisions of this Ordinance, as amended, shall be considered as providing any part of a yard for another building on the same lot or on an adjacent lot.

D) Any use that is not expressly permitted or allowed in this Ordinance shall be prohibited.

E) In measuring the height of a building, parapet walls not exceeding four (4) feet, chimneys, cooling towers, ornamental cupolas, domes, antenna, support structures or spires shall be excluded from the measurement.

F) In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and

the main building shall be used.

G) Double frontage lots shall not be permitted.

H) Both private and common ownership property designated for outdoor living and/or recreation may be designated as open space.

#### **1.1.4.3 ACCESSORY STRUCTURES- RESIDENTIAL**

A) Attached accessory buildings shall conform to the regulations applicable to the main building to which they are attached.

B) Detached accessory buildings shall be subject to all of the following regulations, in addition to any other applicable regulations:

1) Number of Buildings:

a) No more than two (2) detached accessory structures may be placed on any lot of one (1) acre or less.

b) The number of detached accessory structures that may be placed on an Agricultural zoned lot is limited by lot coverage.

2) Lot coverage:

a) The combined floor area of all accessory buildings shall not exceed ten (10) percent of lot coverage or sixty (60) percent of the primary structure, whichever is less. In no case shall the combined area of the primary structure and accessory building(s) exceed the maximum percentage of lot coverage allowed for the zoning district on which the structures are placed.

b) Stables shall be limited in area to ten (10) percent of lot coverage.

3) Setback and Building Line Requirements:

a) Street: Accessory buildings shall not extend beyond a front, side or rear building line adjacent to a street. Provided however, for a lot utilized by a single detached dwelling, a gazebo or similar open-air landscape structure may be located beyond the building line and within the front yard setback but shall not be larger than one hundred (100) square feet.

b) Easement: No accessory structure shall be located within any easement.

c) Side: Accessory buildings shall not be located closer than five (5) feet to the side property line when the accessory building is located behind the main building.

d) Rear: When the accessory building is a garage or carport with rear access, the rear setback shall be a minimum of twenty (20) feet from the property line. All other accessory buildings shall not be located closer than five (5) feet to the rear property line.

e) Other Structures - Accessory buildings, other than carports, shall not be located within five (5) feet of any other structure.

f) Stables (private) shall not be located within fifty (50) feet of any property line or dwelling. A resident of a lot or parcel at least 2 acres in size may raise ride, and



board horses for personal use. Up to two horses are permitted for every lot or parcel. A variance be filed with the Board of Adjustment to deviate from the required setbacks.

- 6) Height: Accessory structures shall be limited to a height of not more than twenty (20) feet.
- 7) Conditional Use Permit: Commercial equestrian or rodeo arenas whether enclosed, partially enclosed, or open air require a Conditional Use Permit.
- 8) Fences: Regulation of fences is controlled by separate City Ordinance except as otherwise stated herein.

#### **1.1.4.4 ACCESSORY STRUCTURES- COMMERCIAL AND INDUSTRIAL**

**Reserved.**

#### **1.1.4.4 HOME OCCUPATION / HOME BASED BUSINESS**

A) Home based business and/or home occupation means business activities and uses that are incidental to the primary use of the premises as a residence and conducted on the residential premises by a resident of the premises.

B) The following regulations shall apply to a home-based business or home occupation.

- 1) On-premises advertisements or signage is prohibited.
- 2) No display of goods or materials or signage shall be allowed.
- 3) Alteration of the exterior appearance of the residential structure or its accessory structure(s) shall not be permitted, nor shall the business occupation or use within the dwelling be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or by signs, or the emission of sounds, noises, dust, odors, fumes, smoke, or vibrations.
- 4) There shall be no more than two (2) employees who do not reside on the premises and who perform work on the premises.
- 5) Pedestrian and vehicular traffic shall be limited to that normally associated with residential districts.
- 6) There shall be no outdoor storage of materials or equipment. There shall be no merchandise visible from outside the dwelling.
- 7) The use of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes.
- 8) No use or storage of mechanical equipment not recognized as being part of normal household or hobby use shall be visible from the public street or neighboring residential use(s).
- 9) All parking shall be on premises with no on-street parking allowed for a home-based business or home occupation.
- 10) As defined by the Human Resource Code, Chapter 42 an "In-home Day Care" or a "Family home" that is certified, listed or registered with the State of Texas is exempt from this Ordinance, and governed by the rules and regulations of the State of Texas.

#### **1.1.4.5 FLOODPLAIN AREA**

- A) Land that is classified by FEMA as located within the one hundred (100) year flood plan shall be conserved or reclaimed as natural undeveloped lands unless in conformance with the FEMA and U.S. Army Corp of Engineers regulations.
- B) Except as otherwise expressly provided by Ordinance, within the floodplain, no development or alteration of the floodplain due to dumping, excavation, storage, filling or mining operations shall be conducted without a development permit approved by the City of Double Horn.
- C) Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding[.]

#### **1.1.4.6 TELEPHONE AND TELECOMMUNICATION EXCHANGE OR FACILITIES BUILDINGS WITHOUT SHOPS OR OFFICES**

- A) Definition: Telephone exchange without shops or offices means a facility for the switching and routing of telephone transmissions.
- B) Required Parking: One (1) space for every one thousand (1,000) square feet of floor area.
- C) Site Plan review and approval is required.

#### **1.1.4.7 UTILITY OR GOVERNMENT INSTALLATION OTHER THAN LISTED**

- A) Definition. Utility or government installation other than listed means:
  - 1) A “utility other than listed” is a public or private facility franchised or operated by a Governmental unit as a utility, and which is not specifically covered by the use regulations in this chapter.
  - 2) A “government installation other than listed” is an installation owned or leased by a government or quasi-public agency and which is not specifically covered by the use regulations in this chapter.
- B) Required Parking. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- C) Required Loading. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- D) Site Plan review and approval is required.

### **CHAPTER 5 - REGULATIONS APPLICABLE TO RESIDENTIAL DISTRICTS**

#### **1.1.5.1 AGRICULTURAL DISTRICT (A)**

- A) Purpose. Land within the City of Double Horn which is presently used for agricultural purposes and to which urban services may not yet be available should continue to be used for such agricultural purposes until needed for urban purposes in conformity with the City’s Comprehensive Plan. Livestock may be maintained indoors and outdoors within the Agricultural

District. It is anticipated that lands currently zoned and used for agricultural purposes will eventually be used for more urban purposes as the City develops. Newly annexed areas will be zoned as an agricultural district initially.

B) Area Requirements.

1. Lot Size.

- a. Minimum Lot Area (square feet): 5 acres
- b. Minimum Lot Width (feet): 200
- c. Minimum Lot width of corner Lots (feet): 230
- d. Minimum Lot Depth (feet): 300

2. Dwelling Regulations.

- a. Minimum Square Footage: 1,200
- b. Maximum number of single-family detached dwellings units per lot: one

3. Yard Requirements - Main Structures Setback.

- a. Minimum Front Yard (feet): 100
- b. Minimum Side Yard (feet): 20
- c. Minimum Side Yard of Corner Lots (feet): 50
- d. Minimum Side Yard of permitted nonresidential use (feet): 50
- e. Minimum Rear Yard (feet): 50
- f. Maximum Lot Coverage: 40%

4. Height of Structures.

- a. Maximum Main Structure (feet): 40
- b. Maximum Accessory Structure (feet): 20

C) Additional Provisions.

1) A minimum separation of one hundred (100) feet between agricultural buildings and dwelling units on the same lot shall be maintained. Agricultural buildings for the purpose of this provision means those buildings used of [for] the raising of crops or animals, or for the storage of agricultural equipment, supplies, or products with a minimum separation of twelve (12) feet between such buildings.

2) A minimum setback of fifty (50) feet from the property line shall be provided for any agricultural building.

3) Non-Enclosed attached patio covers, although an addition to and part of the main structure shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

### **1.1.5.2 SINGLE FAMILY - 1 (SF)**

A) Purpose. The Single Family - 1 Residential District (SF) is for detached dwelling units on individual lots, along with accessory buildings appropriate to single family occupancy.

B) Area Requirements.

- 1) Minimum Lot Area: 2 acres (87,120 square feet)
- 2) Dwelling Regulations.
  - a. Minimum Square Footage: 2,000 – 2,500 square feet based on lot size
  - b. Maximum number of single-family detached dwellings units per lot: one

## **CHAPTER 6 - REGULATIONS APPLICABLE TO NONRESIDENTIAL DISTRICTS**

### **1.1.6.1 COMMERCIAL DISTRICT (C)**

A) Purpose. The Commercial District (C) is to establish business areas for sales tax generating retail, business and personal service enterprises. Site planning controls shall limit sales and services to the interior of building and structures. Where exterior sales and services are necessary, buffering and landscaping shall be required adjacent to residential uses and zones.

B) Area Requirements.

- 1) Minimum Lot Area: 1 acre (43,560 square feet)
- 2) Lot Dimensions: none
- 3) Minimum Building Size: 2,500 square feet
- 4) Maximum Building Size: 20,000 square feet
- 5) Yard Requirements - Main Structures.
  - a) Minimum Front Yard (feet): 25
  - b) Minimum Side Yard (feet): 7 except adjoining residential where the side yard shall be (feet) 15
  - c) Minimum Side Yard of Corner Lots (feet): 25
  - d) Minimum Rear Yard (feet) none except adjoining residential where the rear yard shall be (feet): 15
  - e) Minimum Rear Yard Double Front Lots (feet): 25
  - f) Maximum Lot Coverage: 80%
- 6) Height of Structures.
  - a) Maximum Main Structure (feet): 45
  - b) Maximum Accessory Structure (feet): 14

C) Building Placement, Orientation and Site Design.

- 1) No service canopies, drive-thru lanes, service doors for auto or similar service shall face the public or residential street nor a residential lot or residential zoning district.

- 2) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 3) Sidewalks (eight (8) foot minimum width) shall be provided along lot lines adjoining the public streets. Interior walkways are required and shall be connected to adjoining public sidewalks.
- 4) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 5) Architectural and/or landscape elements shall be designed to provide shade on the south and west exposures to protect patrons in plazas, patios and other public spaces.
- 6) Shopping cart areas, within the tenant space shall be screened from view with decorative screening or landscaping as high as the carts.
- 7) Exterior display of retail sales, vending, amusements and seasonal sales shall be pre-planned and proposed locations for such activities shall be depicted on the site plan for approval by City.
- 8) Accessory structures such as trash enclosures, utility services, telecommunication equipment and heating/cooling systems shall be screened from view of neighboring buildings, sites and roadways. Materials to screen around these systems shall match or compliment adjacent building materials. Gates shall not allow for view of the contents of the enclosure.
- 9) Highly visible detention basins for storm drainage shall be contoured, use curvilinear design forms and shall be aesthetically landscaped and maintained.

#### **1.1.6.2 Industrial District (I)**

A) Purpose. The zoning of property as "I" industrial is intended to provide for areas of large-scale industrial development that focus on research and development, warehousing, assembling, high technology, and small-scale distribution and processing. The uses in this district shall be limited to ensure that they do not create any offensive noise, vibration, smoke, dust, and/or odor. Non-residential buffer districts are to be utilized in conjunction with industrial uses to mitigate impacts from industrial uses on residential districts.

B) Development Standards for mining, quarrying, dredging or excavation and other industrial uses. Mining, quarrying, dredging or excavation of dirt, gravel, sand or stone, for the purpose of removing, screening, crushing, washing or storage of ore, clay, stone, gravel or similar materials, and development of other industrial uses shall be subject to the following requirements:

- a. Provision of a site plan depicting all existing conditions, including topography at five-foot intervals, streams, lakes and other bodies of water, roadways, utility lines, structures and major vegetation, including canopy cover;
- b. Identification of any known protected species of plant, fish or animal life, or the presence of areas of historic, cultural or archeological significance. Such property that is found to be protected or of significant public interest shall not be included in any area approved for mining;
- c. Delineation of all permits and licenses (including NPDES and Texas air control board) required for the operation of such a facility, name of contact person, agency address

and telephone number of all permitting agencies and verification of approval of same prior to operation;

d. Submission of a plan of operation, including scheduling of activities, phasing, traffic generation, employees and storage and use of explosives or other hazardous or caustic materials or chemicals;

e. Analysis of potential impacts to adjacent properties (especially residential) due to dust, noise, water runoff and diversion, ground water alteration, silting, sedimentation, erosion, traffic and mitigation plan and measures to control such impacts. Submittal of drainage study if deemed necessary by the zoning administrator. When deemed appropriate, as a mitigation measure of the site perimeter, city council may require appropriate buffering, berming, screening and landscaping greater than that required under this zoning ordinance, which shall be maintained in a proper manner at the expense of the property owner. All mitigation measures must be installed and completed prior to any physical mining of the site or industrial development;

f. Submission of plan for protection of adjacent rights-of-way and streets if mining operations are planned within 50 feet of such rights-of-way and streets, and approval of plans required from the zoning administrator or city engineer;

g. Approvals from all utility service providers, transmission, electric and pipeline companies for work around, near or across such utility facility, including approvals for relocation of such utility facility if required;

h. Site plan identifying all proposed structures, operating facilities, loading and wash areas, roadways, stream or water course diversions, holding ponds/tanks, temporary power lines and other site improvements;

i. A reclamation plan, including final topography contours, at five-foot intervals, relocated stream beds, lakes, ponds and other physical features, type and depth of surface material, seeding and replanting plan for restoration of the original canopy cover of the site, including any required cross-section and engineering/construction plans as approved by the city engineer or a soil conservation scientist. It is recommended that plant materials native to the site be used;

j. Submission of a performance bond or cash payment for each phase to ensure that all restoration costs in accordance with the reclamation plan of the site are met;

k. Provision of a clearly visible sign at the entrance to the mining operation identifying the name, business address and phone number of the facility owner and operator in compliance with the requirements for on-premises signs; and

l. City council may appoint an oversight committee of city staff, public representatives and others, as required, to provide assurance of compliance with all federal, state and city regulations, codes and ordinances. The operator and/or owner of a mining operation shall provide in writing for the limited access to the property by said members subject to all safety and operational restrictions required by law to protect on-site public welfare and safety.

C) Area Requirements.

1) Lot Size.

- a) Minimum Lot Area: Four (4) acres
  - b) Minimum Lot Width: None
  - c) Minimum Lot Depth: None
- 2) Minimum Building Size: None
- 3) Maximum Building Size: No more than 50% area coverage for all buildings
- 4) Yard Requirements - Main Structures.
- a) Minimum Front Yard (feet): Forty (40) feet
  - b) Maximum Front Yard (feet): None
  - c) Minimum Side Yard (feet): Fifteen (15) feet or ten (10) percent of the lot width, whichever is greater. Thirty (30) feet when adjacent to a residential district. Buildings over twenty (20) feet in height shall set back an additional one (1) foot for each additional two (2) feet in height.
  - d) Maximum Side Yard of Corner Lots (feet): None
  - e) Minimum Rear Yard (feet): Fifteen (15) feet or ten (10) percent of the lot width, whichever is greater. Thirty (30) feet when adjacent to a residential district. Buildings over twenty (20) feet in height shall set back an additional one (1) foot for each additional two (2) feet in height
  - f) Maximum Lot Coverage: Fifty (50) percent of lot area, including principal and accessory buildings and facilities.
- 5) Height of Structures.
- a) Maximum Main Structure (feet): Three (3) stories, maximum forty-five (45) feet from finished grade, subject to development and performance standards
- 6) Exception. Rock Crusher – Standard Tier 1, Rock Crusher – Standard Tier 2, and Rock Quarry shall have the setback requirements found within the definition for such land uses in accordance with Chapter 3 of this Ordinance.

D) Building Placement, Orientation and Site Design.

- 1) Materials or equipment not offered for sale or rent but used in the business may be stored outside the permanent building if they are located on a paved surface and screened from public view.
- 2) Artificial lighting used to illuminate the premises and/or signage shall be directed away from adjacent residential properties.
- 3) A development allowable in this district shall provide and maintain perpetually a vegetative buffer along all rear and side property lines. The Non-residential buffer area shall apply towards the screening requirements under this subsection. Off-street parking areas shall be screened with tree preservation and landscaping.
- 4) All uses and activities permitted in this district shall conform to the environmental standards of noise, vibration, smoke emissions, odors, toxic or noxious matter, nuclear radiation, electromagnetic radiation and interference, and heat or glare, as provided herein and within the City's adopted ordinances as may be applicable.

- 5) All buildings shall be designed and constructed in accordance with the building design standards provided for herein.
- 6) Sidewalks, located in the platted street right-of-way, shall be provided adjacent to all public and private streets and service roads. Sidewalks shall be no less than five (5) feet in width, shall comply with the specifications of the city, and shall comply with the requirements and specifications of the American's with Disabilities Act (ADA).

### **1.1.6.3 NON-RESIDENTIAL BUFFER DISTRICT (NR)**

A) Purpose. The zoning of property as "NR" Non-Residential Buffer District is intended to provide a transition from Industrial and Commercial to Residential land uses. The uses in this district shall be limited to ensure that they do not create any offensive noise, vibration, smoke, dust, and/or odor.

B) Development Standards. No development shall be authorized within the NR buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. When it is determined that a zoning district abuts an incompatible zoning district along a mutual side or rear property line or where separated only by an alley, setbacks shall be greater than the minimum requirements set forth by that abutting district. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction.

## **CHAPTER 7 - SITE PLAN REQUIREMENTS**

### **1.1.7.1 PURPOSE**

The purpose of this Section is to regulate the manner in which land in the City of Double Horn is used and developed, minimize adverse effects on surrounding property or the general public, protection from fire, protection of adjacent uses from obstructions to light, air and visibility plus provision of adequate storm water drainage facilities, transportation, water and sanitary sewage facilities.

### **1.1.7.2 SITE PLAN APPLICATION AND APPROVAL**

- A) A site plan application drawn to scale, and approval of such site plan shall be required prior to any site development other than construction of one (1) single family detached dwelling.
- B) The City Council shall consider approval of the site plan after review by the zoning administrator and receipt of recommendations from the Planning and Zoning Commission.

### **1.1.7.3 SITE PLAN REQUIREMENTS**

Each site plan drawing submitted with an application for review and approval shall contain the following information:

- A) Project Name.



- B) Vicinity Map at a scale of less than 1":1,000'.
- C) Scale of the site plan drawing shall be no less than 1":50'.
- D) North Arrow.
- E) Date.
- F) Aerial Photography upon which the proposed development features shall be placed.
- G) Public Street Names and locations for all existing and proposed streets rights-of-way, within or on the boundary of the proposed development, pavement widths, sidewalks and bikeways.
- H) Lot layout with dimensions for all lot lines, all yards and building site(s).
- I) Zoning designations of proposed development and all adjoining lots and development.
- J) Location of all existing and proposed fences, structures, and buildings on the development site as well as within two hundred (200) feet of the proposed site.
- K) Location and sizes of all existing and proposed easements for public utilities in and adjacent to the proposed development including:
  - 1) Water lines and diameter, fire hydrants, connections to water.
  - 2) Sanitary sewer lines, diameters, manholes, connections to City Sewer Line.
  - 3) Storm water detention/retention facilities, outlets and inlets with pre and post detention facilities for five (5) to one hundred (100) year storms in five (5) year increments.
  - 4) Electric and gas facilities and easements.
  - 5) Telecommunication facilities and easements.
- L) Show existing land topography at contour interval of not more than two (2) feet, floodplains and proposed grading and changes to topography.
- M) Proposed open space reserves, park lands and recreation lands.
- N) Proposed location of all proposed parking and loading areas and parking and loading spaces, ingress and egress on the site, fire lanes, required site triangles, curb radius and on-site circulation. A loading space shall be not less than twelve (12) feet by fifty (50) feet with a vertical clearance of at least fourteen (14) feet. The exterior loading space shall be located to the rear or side of the principal use and not within the front yard or required side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right-of-way or adjoining residential zone or residentially used property.
- O) Location of existing landscaping features including, but not limited to existing trees greater than six inches (6"), creeks, wetlands, FEMA flood plains or ponds existing on the site and within fifty (50) feet of the site boundary. Also, any planned modifications of a natural landscape feature shall be noted.
- P) Landscape Plan showing detail of the location, type and size of the proposed landscaping and plantings as required by this Ordinance.
- Q) Architectural elevations for all buildings on all sides of the building proposed on the site. Plans to include material, color, texture, windows, doors and other design features of the building, including screening for mechanical equipment on roof or visible at site. Elevations shall be

submitted drawn to scale of 1":10' or greater.

R) Signage plans shall include signs drawn to scale, illumination type, height and construction (material and style) and location for all proposed and existing signs.

S) Illumination plans shall be provided that show the illumination of the building and structures and the lighting levels within the site and within twenty (20) feet of the site.

T) Parkland, Recreation Land and Open space Reserve Plan showing detail of the location, type and size of proposed development features, recreational features, access and egress, parking, trails and sidewalks and plantings as required by this Ordinance.

U) Data to be provided include: Gross area of site, number of dwelling units, percent of lot coverage, percentage of lot covered by impervious surfaces, percent of landscaping, total number of parking and loading spaces.

V) Documentation and demonstration of compliance with the specific development standards applicable to the commercial and industrial zoning districts.

#### **1.1.7.4 CRITERIA FOR APPROVAL**

A) All applicable City of Double Horn Comprehensive Plan and Ordinance requirements shall have been met as a condition of site plan approval.

B) All applicable Site Plan requirements of this Ordinance shall have been met as a condition of site plan approval.

C) The adequate capacity of public or private facilities for water, sewer and access to, from and through the development shall be met as a condition of site plan approval. City reserves the right to deny approval of a site plan based upon insufficient capacity of any public facility or facilities.

#### **1.1.7.5 POWER TO AMEND PLANS**

When considering approval of Site Plan, the Planning and Zoning Commission and/or City Council may include any or all of the following conditions as they deem necessary to achieve compliance with the intent and purpose of this Ordinance and the Comprehensive Master Plan.

A) Require a traffic study

B) Require modifications in the landscaping plan to ensure proper screening and aesthetic appearance.

C) Require the modification or revision of the placement, design or remodeling of structures, signs, accessory buildings, etc., to be consistent with the standards.

D) Require the type and placement of shielding of lights for outdoor circulation and parking.

E) Require any new development which produces more than one thousand (1,000) vehicle trips per day to provide traffic mitigation by means of traffic signals, controls and turning islands, landscaping or any other means necessary to insure the viability, safety and integrity of the major street as a through corridor.

F) Require pedestrian access, separate pedestrian access ways and sidewalks.

G) Require open space reserves, park land, recreational lands and development or a fee in lieu

of land dedication or park land development.

#### **1.1.7.6 TERM OF THE APPROVED SITE PLAN**

An approved Site Plan shall be effective for a period of two (2) years from the date of approval by City Council; at the end the two (2) year period, the Site Plan shall automatically expire without the requirement of further action by the City unless the development has received a Certificate of Occupancy.

### **CHAPTER 8 - OFF-STREET PARKING AND LOADING REGULATIONS**

#### **1.1.8.1 PURPOSE.**

To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provisions of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land, minimum off-street parking and loading shall be provided as set forth in the following tables and provisions.

#### **1.1.8.2 OFF-STREET PARKING SITE DESIGN REQUIREMENTS**

- A) Required off-street parking shall be provided on the same site as the use it serves.
- B) No parking shall be allowed except on a No. 2 base rock or higher quality surface or a paved concrete or asphalt parking space surface.
- C) No parking structure, including garages, carports, or similar structures, shall be located within the required front, side, or rear yards of a lot or tract.
- D) Each standard off-street surface parking space shall measure not less than nine feet by 20 feet, exclusive of access drives and aisles, and shall be of usable shape and condition. Where it is possible for a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street right-of-way, or adjacent property, the length of the standard space may be reduced to 18 feet.
- E) Each parking space (on-street or off-street) designed for parallel parking shall have a minimum dimension of eight feet by 22 feet.
- F) Each standard parking space located in a parking garage shall measure not less than nine feet by 18 feet, exclusive of access drives or aisles.
- G) Parking lots shall be adequately lit and shall include pedestrian amenities such as sidewalks and pedestrian ways perpendicular to the main building. Trash receptacles shall be provided. Grocery cart parking shall be placed in controlled areas throughout the parking lots when carts are provided.
- H) Minimum one (1) pedestrian walkway (minimum five (5) foot wide (beyond the bumper overhang) through the parking lot to the building shall be provided.
- I) Parking lots shall be screened from view along sidewalks and roadways through the combined use of free forming berms, low masonry walls and plantings.

- J) Trees shall be placed in islands, medians, and perimeter areas adjacent to the parking lots (excluding street trees).
- K) No landscaped area within the parking lot shall be less than one hundred (100) square feet.
- L) Landscape islands, medians, perimeter curbs and sidewalks shall contain an eighteen (18) inch wide concrete or decorative paver curb along the inside of the feature that abuts parking stalls to allow patrons to avoid treading over landscaping.
- M) To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties. For safety and firefighting purposes, free access through to adjacent parking areas shall be provided where practical.

**1.1.8.3 OFF STREET PARKING REQUIREMENTS**

Off street parking spaces shall be provided in accordance with the following table:

<b>General Use Category</b>	<b>Parking Space Requirements</b>
Educational, institutional, and special uses	One space per employee
Transportation, utility and communications uses	One space per employee plus one space per stored vehicle
Accessory and incidental uses	One space per employee
Office and professional uses	One space per 300 square feet of gross floor area
Automobile and related uses	One space per employee plus one space per stored vehicle
Retail uses	One space per 200 square feet of gross floor area
Service uses	One space per 200 square feet of gross floor area
Special events center	One space for each 50 square feet of floor area used
Wholesale uses	Same as for "Storage or warehousing"
Contract construction uses	One space per employee
Commercial, manufacturing, and industrial uses	Same as for "Manufacturing, processing, or repairing"

**1.1.8.4 OFF-STREET LOADING SITE DESIGN REQUIREMENTS**

- A) Exterior loading space(s) shall be located to the rear or side of the principal use and not within the front yard or side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right-of-way or adjoining residential zone or residential use. If masonry is utilized said masonry shall match the masonry used on the principal building.
- B) Driveways from the public street to the loading space shall be constructed of reinforced concrete.
- C) Drive through service bays shall not be located adjacent to a residential zone or residential property.

**1.1.8.5 OFF-STREET LOADING SPACE REQUIREMENTS**

- A) Loading spaces shall be provided in accordance with the following table:

For All Retail, Commercial and Industrial Uses	
Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 100,000	1 additional

For All Hotels, Office Buildings, Restaurants, Similar Establishments	
Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 50,000	None
50,000 to 150,000	1
150,000 to 300,000	2
300,000 to 500,000	3
500,000 to 1,000,000	4

Each additional 500,000	1 additional
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**CHAPTER 9 - LANDSCAPING REQUIREMENTS PURPOSE**

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the city. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, stormwater runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development, except agricultural uses, adjacent to public streets.

**1.1.9.2 APPLICABILITY**

The standards and criteria contained within this division are deemed to be minimum standards and shall apply to all new, or altered (i.e., exceeding 30% of the original floor area), construction occurring within the city. Additionally, any use requiring a conditional use permit zoning designation must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the CUP.

**1.1.9.3 GENERAL STANDARDS**

The following criteria and standards shall apply to landscape materials and installation.

(1) Quality.

(A) Conformance. Plant materials used in conformance with the provisions of this chapter shall conform to the standards of the American Standard for Nursery Stock, or equal thereto.

(B) Approved plant list. Plant materials shall be from the city's approved plant list. The mayor/city secretary or his or her designee may approve the use of other plant materials when requested by an applicant/property owner. Plant materials should generally be selected for landscaping materials based on ability to flourish in the Central Texas climate. Specifically, plant materials should have high heat tolerance and lower water consumption, where possible.

(C) Material. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

(2) Trees.

(A) Minimum caliper size. Trees, unless otherwise noted, shall be of a minimum of three caliper inches when measured 12 inches above ground, and shall be selected from the list of approved trees, maintained by the city administrator or his or her designee as approved by the planning and zoning commission.

(B) Crown. Trees shall have an average spread of crown of greater than 15 feet at maturity.

(C) Grouping. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same to create the equivalent of a 15 feet crown of spread.

(3) Shrubs and hedges.

(A) Shrubs shall be a minimum of three gallons.

(B) Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be three feet high within one year after time of planting.

(4) Vines. Vines shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet screening requirements as specified.

(5) Ground cover. Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting.

(6) Lawn grass. Grass areas may be sodded, plugged, sprigged or seeded.

## **CHAPTER 10 - USE REGULATIONS**

### **1.1.10.1 CONDITIONAL USE**

A) The purpose of a Conditional Use Permit provides a means for developing certain uses in a manner in which the proposed use will be compatible with adjacent property and consistent with the character of the neighborhood.

B) The uses listed in each district as "Conditional Use" are prohibited in the district unless and until a Conditional Use Permit is granted for such use by the City Council in accordance with the requirements and procedures set forth in this section. Conditional Use requirements as to number, area, location, duration or relationship to the neighborhood and adequate development standards and safeguards established for such use are intended to promote the health, safety and welfare of the neighborhood and the City.

C) Each Conditional Use Permit shall be evaluated as to its probable effect on the adjacent

property and the community welfare and may be approved or denied as the findings indicate appropriate in the discretion of the City Council.

D) Conditional Use Permit Application. An application for a Conditional Use Permit shall be submitted to the Planning and Zoning Commission and shall include the following:

- 1) A written description of the proposed use.
- 2) A plan showing the location of the proposed use on the site.
- 3) Any additional information required by the Zoning Administrator.

E) Review by the Planning and Zoning Commission and the City Council of a Conditional Use Permit Application.

- 1) The Planning and Zoning Commission shall hold a public hearing after proper advertisement and make a recommendation to the City Council.
- 2) The City Council shall hold a public hearing and approve, approve with conditions, or deny the Conditional Use Permit based on the review criteria below.

F) Conditional Use Permit Review Criteria. In evaluating a Conditional Use Permit application, the Planning and Zoning Commission and the City Council shall consider whether the proposed use:

- 1) Compliments or is compatible with the surrounding uses and community facilities;
- 2) Contributes to, enhances, or promotes the welfare of the area of request and adjacent properties;
- 3) Is not detrimental to the public health, safety, or general welfare;
- 4) Conforms in all other respects to all applicable zoning regulations and standards; and
- 5) Is in conformance with the Comprehensive Plan.

G) Additional Conditions on a Conditional Use Permit.

- 1) As a condition of approval, the Planning and Zoning Commission and City Council may impose reasonable conditions upon the Conditional Use Permit consistent with the Comprehensive Plan, other stated development goals and objectives of the City and the requirements of other City regulations.
- 2) Such conditions may include, but are not limited to the location, health, safety, arrangement, operation, duration, traffic, parking, and type and manner of construction of any use for which a Conditional Use Permit is requested.

H) Effect of Conditional Use Permit.

- 1) The granting of a Conditional Use Permit has no effect on the uses permitted by right and does not waive the regulations of the underlying zoning district.
- 2) A Conditional Use Permit runs with the land; therefore, a new owner is not required to reapply for a Conditional Use Permit unless a time limit that has been established terminates.

I) Conditional Use Permit and the Zoning Map.

- 1) When the City Council authorizes granting of a Conditional Use Permit, the zoning



map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.

2) The amendment is to indicate the appropriate zoning district for the approved use and shall be suffixed by a “C” designation.

#### **1.1.10.2 TEMPORARY USE**

A) Temporary uses operating for less than ninety (90) days within a one (1) year time period shall obtain a Temporary Use Permit from the zoning administrator. Temporary Use Permits shall specify conditions of operation with the objective being to allow the use subject to conditions determined appropriate to protect the public health, safety, and welfare.

B) Temporary Use shall include short-term or seasonal uses that would not be appropriate on a permanent basis. The following uses and activities shall be considered temporary uses and no other temporary uses shall be allowed:

1) Fundraising Activities by Not-for-Profit Agencies. Fundraising or Non-commercial events for nonprofit educational, community service or religious organizations where the public is invited to participate in the activities, and which last longer than forty-eight (48) consecutive hours.

2) Special and Seasonal Sales Events. Significant commercial activities lasting not longer than ninety (90) consecutive days and which are intended to sell, lease, rent or promote specific merchandise, services or product lines, including but not limited to warehouse sales, tent sales, trade shows, flea markets, farmer’s markets, Christmas tree lot sales, product demonstrations or parking lot sales of food, art work or other goods.

3) Entertainment or Amusement Events. Short-term cultural and entertainment events including public or private events lasting not longer than ninety (90) consecutive days and which are intended primarily for entertainment or amusement, such as concerts, plays or other theatrical productions, circuses, fairs, carnivals or festivals.

C) Temporary Use Permit Applications. An application for a Temporary Use Permit shall be submitted to the Zoning Administrator at least ten (10) working days before the requested start date for a temporary use and shall include the following:

1) A written description of the proposed use or event, the duration of the use or event, the hours of operation, anticipated attendance, and any building or structures, signs or attention-attracting devices used in conjunction with the use or event.

2) A written description of how the temporary use complies with the review criteria below.

3) A plan showing the location of proposed structures, including on-site restrooms and trash receptacles, parking areas, activities, signs and attention attracting devices in relation to existing buildings, parking areas, streets and property lines.

4) A letter from the property owner agreeing to the temporary use if the applicant is not the property owner.

5) Any additional information required by the Zoning Administrator as he/she determines necessary to evaluate the permit request.

D) Appeal of Denied Temporary Use Permit by the P&Z.

- 1) The Zoning Administrator shall make a determination whether to approve, approve with conditions, or deny the permit within five (5) working days after the date of submission of a complete application for a temporary use permit.
- 2) Any applicant denied a permit by the Zoning Administrator shall be notified in writing of the reasons for the denial and of the opportunity to appeal to the Commission.
- 3) A denial of a temporary use permit may be appealed to the Commission within ten (10) days of the Zoning Administrator's action. The appeal shall be made in writing to the City Secretary and a copy shall be provided to the Zoning Administrator.

E) Review Criteria for Temporary Use Permits:

- 1) The temporary use must be compatible with the purpose and intent of this Ordinance.
- 2) The temporary use shall not impair the normal, safe and effective operation of a permanent use on the same site or adjacent sites.
- 3) The temporary use shall not endanger or be detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the type of activity, its location on the site, and its relationship to parking and access points.
- 4) The temporary use shall conform in all respects to all other applicable City regulations and standards.

F) Restoration of Site. Upon cessation of the event or use, the site shall be returned to its previous condition, including the removal of all trash, debris, signage, attention-attracting devices or other evidence of the special event or use. The applicant shall be responsible for ensuring the restoration of the site.

G) Hours of Operation and Duration: The hours of operation and duration of the temporary use shall be consistent with the intent of the event or use and compatible with the surrounding land uses and shall be established by the Zoning Administrator at the time of approval of the temporary use permit.

H) Traffic Circulation: The temporary use shall not cause undue traffic congestion given anticipated attendance and the capacity of adjacent streets, intersections and traffic controls.

I) Off-street Parking: Adequate off-street parking shall be provided for the temporary use, and it shall not create a parking shortage for any of the other existing uses on the site(s).

J) Public Conveniences and Litter Control: Adequate on-site rest room facilities and litter control may be required as condition of the permit.

K) The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City, and City may require applicant to provide a financial guarantee of compliance.

L) Appearance and Nuisances: The temporary use shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.

M) Signs: The Zoning Administrator shall review all signage. The Zoning Administrator may approve the temporary use of attention attracting devices that comply with the City's Sign regulations.

N) Additional Conditions for Temporary Use Permits. The Zoning Administrator may establish additional conditions to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering, guarantees for site restoration and cleanup following the temporary use and other conditions determined necessary for compliance with City's ordinances and the protection of public health, safety and welfare.

### **1.1.10.3 CLASSIFICATION OF NEW AND UNLISTED USE**

A) Unlisted Uses: The uses permitted are classified on the basis of common operational characteristics and land use compatibility. Uses not specifically listed are hereby prohibited. However, additional new and unlisted uses may be permitted by the Commission, subject to City Council approval, if the use is similar to other uses listed in the same Zoning District.

B) Conditions on New Land Uses: When considering requests for a new land use, the Commission shall consider the potential effects of the use on adjacent properties in terms of requirements for services, compatibility, visual impact, traffic generation, the extent to which the use is consistent with other uses allowed in the district, consistency with the comprehensive master plan and other issues they deem appropriate.

C) Authorization of New Uses: If after public hearing, a new use is authorized by the Commission, a text amendment shall be sent to the City Council for public hearing and action.

## **NON-RESIDENTIAL USES**

### **1.1.10.5 NON-CONFORMING USE**

A lawful use of property existing at the time of the passage of this Ordinance, as amended that does not conform with the regulations of this Ordinance shall be deemed a "non-conforming use," except that any residential use existing at the time of passage of this Ordinance shall be deemed a conforming use.

A) If a non-conforming use of a property is discontinued and not occupied for more than (90) ninety days, the non-conforming use status of the property is automatically deemed to be discontinued and any future use of said property shall be in conformity with the provisions of this Zoning Ordinance.

B) A non-conforming use of a building may be continued and may be changed to another non-conforming use of the same or more restricted classification. A non-conforming use existing in a portion of a building may be extended to other portions of the building provided that no structural alterations, except those required by law or ordinance, are made therein. Notwithstanding the foregoing, in the event that a non-conforming use of all or a portion of the building is changed to a non-conforming use of a more restricted classification in all or a portion of the building, such non-conforming use shall not later revert to a less restricted classification in any portion of the building for which the change to a more restricted classification was made.

C) The non-conforming use shall not be continued in case of total destruction of the building by fire, wind or other cause. In the case of partial destruction, defined as destruction not exceeding fifty (50) percent of a building's value, the Zoning Administrator shall issue a permit for reconstruction. If partial destruction is greater than fifty (50) percent, the City Council, in its discretion, may grant a permit for repair or reconstruction after conducting a public hearing at which the City Council considers the interests of the persons affected, the public welfare, the character of the area surrounding the non-conforming use, and the conservation and preservation of property.

## CHAPTER 11 – PLANNING AND ZONING COMMISSION

### 1.1.11.1 PLANNING AND ZONING COMMISSION

A) Organization and appointment. There is hereby created a planning and zoning commission which shall be organized, appointed, and function as follows:

- (1) *Membership.* The planning and zoning commission shall consist of five members and up to two alternate members who are residents of the city or its extraterritorial jurisdiction, each to be appointed by the city council to serve at the pleasure of the city council for a term of two years until a successor is appointed. Appointees shall fill positions which shall be designated by place numbers (e.g., place 1, place 2, etc.). Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The city council may appoint two alternate members of the planning and zoning commission who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the planning and zoning commission. In the absence of an appointed planning and zoning commission, the city council shall serve as the planning and zoning commission.
- (2) *Terms.* The terms of members filling places 1, 3, 5, and Alternate 1 shall expire on June 30 of each odd-numbered year and terms of members filling places 2, 4, and Alternate 2 shall expire on June 30 of each even-numbered year. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member or alternate member shall be appointed for a term in excess of two years. Newly appointed members and alternate members shall be installed at the first regular commission meeting after their appointment.
- (3) *Organization.* The commission shall hold an organizational meeting in July of each year. The commission shall meet regularly and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this ordinance and the requirements of law. The planning and zoning commission shall elect a chairman from its own membership at its annual organizational meeting.
- (4) *Quorum and compensation.* A quorum for the conduct of business shall consist of three members or alternate members of the commission. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

B) Duties and authority. The planning and zoning commission is hereby charged with the duty

and invested with the authority to:

- (1) Formulate and recommend to the city council for its adoption a city plan for the orderly growth and development of the city and its environs and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (2) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of city zoning regulations and districts as authorized under state law.
- (3) Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as authorized under state law.
- (4) Study and recommend the location, extension, and planning of public rights-of-way, parks, or other public places, and on the vacating or closing of same.
- (5) Study and make recommendations regarding the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances.
- (6) Initiate, in the name of the city, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on an area-wide basis.
- (7) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted city plan governing the location or operation of utilities, public facilities, and services owned or under the control of the city.
- (8) Submit each May a progress report to the city council summarizing its activities for the past year and a proposed work program for the coming year.

C) Public hearing and notice.

- (1) Upon filing of an application for an amendment to the city zoning regulations or map, the planning and zoning commission shall call a public hearing on the application.
- (2) Written notice of hearing shall be sent to the owner of the property or his agent and to all owners of real property lying within 200 feet of the property on which the change in classification is proposed. The notice shall be given not less than ten days before the date of such hearing, to all such owners as the ownership appears on the last approved city tax roll. The notice may be served by depositing the same, properly addressed and postage paid, in the city 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 after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by one publication in the official newspaper at least 15 days before the time of hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.
- (3) If, at the conclusion of the hearing, the planning and zoning commission recommends amendment of this ordinance to the city council, the recommendation shall be by resolution

of the planning and zoning commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the city council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.

- (4) If, after public hearing, the planning and zoning commission recommends denial of an application, the applicant may appeal the determination to the city council by filing a written notice of appeal with the city secretary within ten days after the determination of the planning and zoning commission.

D) Action of the city council.

- (1) If the planning and zoning commission has recommended approval of an application or if the planning and zoning commission has recommended denial of an application and a notice of appeal has been filed pursuant to subsection (c) of this section, the city council shall set the application for public hearing and shall give notice of the time and place of the hearing by one publication in the official newspaper at least 15 days prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all owners of real property lying within 200 feet of the subject property pursuant to subsection (c) of this section.
- (2) If the planning and zoning commission has recommended to the city council that a proposed amendment be disapproved, the city council may refuse to adopt the amendment by a simple majority vote of the council members present and voting. However, in order to adopt the amendment which has been recommended for disapproval by the planning and zoning commission, the amendment shall not become effective except by the favorable vote of three-fourths of all members of the city council present and voting.
- (3) When the planning and zoning commission has recommended to the city council that a proposed amendment be approved, the city council may disapprove the petition or application for amendment by a simple majority vote of the city councilmembers present and voting. In the event of a tie vote of the city councilmembers present and voting, the mayor may cast the deciding vote.
- (4) In the case of a protest against an amendment to the ordinance signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the area of the lots or land immediately adjoining the area included in the proposed change and extending 200 feet from that area, such amendment shall not become effective except by the favorable vote of three-fourths of all members of the city council.
- (5) In making its determination, the city council shall consider the following factors:
  - a. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.
  - b. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.
  - c. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.

- d. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
  - e. The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.
  - f. Any other factors which will substantially affect the public health, safety, morals or general welfare.
- E) Effect of denial of petition.
- 1) In case an application for an amendment to this ordinance is denied by the planning and zoning commission, and no appeal therefrom is taken to the city council, or in case an application for an amendment to this ordinance is denied by the city council (in either of the events), the application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the planning and zoning commission, to be eligible for consideration within one year of the denial of the original application.
  - 2) In the event a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered as being substantially different from the application denied.
- F) Final approval and ordinance adoption. If the amending ordinance is not approved within six months from the time of its original consideration, the zoning request, at the option of the city council, may be recalled for a new public hearing.
- G) Changes in city zoning regulations. Amendments to this ordinance not involving a particular property but involving a change in the city zoning regulations generally do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the city, stating the time and location of the public hearing, which time shall not be earlier than 15 days from the date of such publication.

## **CHAPTER 12 - BOARD OF ADJUSTMENT**

### **1.1.12.1 BOARD OF ADJUSTMENT**

- A) City council to act as zoning board of adjustment. The city council shall act as the zoning board of adjustment of the city.
- B) Powers and duties of board.
- 1) Appeals based on error. Acting as the zoning board of adjustment, the city council shall have the power to hear and decide:
    - a) Appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official of the city in the enforcement

- of this chapter;
    - b) Special exceptions to the terms of this chapter when the ordinance requires the board of adjustment to do so;
    - c) Authorize a variance from the terms of this chapter as allowed by state law; and
    - d) Other matters authorized by ordinance.
  - 2) Limitation on reapplications. When the city council acting as the zoning board of adjustment has denied a proposal, no new applications of similar nature shall be accepted by the council or scheduled for 12 months after the date of council denial. Applications which have been withdrawn at or before the council meeting may be resubmitted at any time for hearing before the council.
  - 3) Vote of 75% of the members required. The concurring vote of 75% of the members of the city council acting as the zoning board of adjustment is necessary to:
    - a. Reverse an order, requirement, decision or determination of an administrative official;
    - b. Decide in favor of an applicant on a matter on which the board is required to pass; or
    - c. Authorize a variation from the terms of a city zoning regulations.
- C) Appeals to the Board of Adjustment.
- 1) Procedure. Appeals may be taken to and before city council acting as the zoning board of adjustment by any person aggrieved, or by any officer, department, board or bureau in the city. Such appeal shall be made by filing in the office of the city secretary a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the council all of the papers constituting the record from which the action appealed was taken.
  - 2) Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official shall certify to the city council acting as the zoning board of adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal is taken.
  - 3) Notice of hearing on appeal. The council shall fix a reasonable time for the hearing of the appeal or other matter referred to it. At least ten days prior to the public hearing, notices of such hearing shall be mailed to the petitioner and to the owners of property lying within 200 feet of any point of the lot or portion thereof on which a variation is desired, such owners being determined according to the last approved city tax roll. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.
  - 4) Decision by board. The council shall decide the appeal within a reasonable time upon the hearing. Any party may appear in person or by agent or attorney. The council may reverse or affirm wholly or partly or may modify the order, requirements, decision, or



determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

D) Variances. The city council acting as the zoning board adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done, including the following:

- 1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
- 2) Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the construction or alterations of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this chapter as are in harmony with its own general purpose and intent, but only when the council is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter and at the same time, the surrounding property will be properly protected.
- 3) The city council acting as the zoning board of adjustment shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the zoning administrator in the enforcement of this chapter. Except as otherwise provided herein, the council shall have, in addition, the following specific powers:
  - a) To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the master plan and present no conflict or nuisance to adjacent properties.
  - b) To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
  - c) To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of the ordinance from which this chapter is derived.
  - d) To waive or reduce the parking and loading requirements in any of the districts, when:
    - i) The character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or

- ii) Such regulations would impose an unreasonable hardship upon the use of the lot.

The city council acting as the zoning board of adjustment shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.

- 4) A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
  - c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district; and
  - e. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

E) Changes.

- 1) The city council acting as the zoning board of adjustment shall have no authority to change any provisions of this chapter and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. The council may not change the district designation of any land either to a more or less restrictive zone nor may the council authorize a use that is not authorized in the zoning district.
- 2) It is the intent of this section that all questions of interpretation and enforcement shall be first presented to the zoning administrator, that such questions shall be presented to the city council acting as the zoning board of adjustment only on appeal from the decision of the zoning administrator and that recourse from the decisions of the city council acting as the zoning board of adjustment shall be to the courts as provided by the laws of the state.

**EXHIBIT "B"**

**CITY OF DOUBLE HORN, TEXAS**

**ORDINANCE NO. 2019-ORD018**

**ZONING DISTRICT MAP**