

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 361-05, THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF BARTONVILLE, AS AMENDED, BY CHANGING THE ZONING DESIGNATION OF APPROXIMATELY 10.076 ACRES LOCATED AT THE SOUTHEAST CORNER OF McMAKIN AND EAST JETER ROADS, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, FROM A ZONING DESIGNATION OF "RB" RURAL BUSINESS TO A ZONING DESIGNATION OF "RE-2" RESIDENTIAL ESTATE, AND BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bartonville, Texas, is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town of Bartonville, Texas, is a general law municipality empowered under the Texas Local Government Code, Section 51.001, to adopt an ordinance or rule that is for the good government of the Town; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the Town has the authority to adopt a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, and to amend said ordinance and map for the purpose of promoting the public health, safety, morals and general welfare; and

WHEREAS, the owner of a 10.076 acre tract of land located at the Southeast corner of McMakin and East Jeter Roads in Bartonville, Texas, has initiated an application on the hereinafter described property to re-zone same; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the Town of Bartonville on the 5th day of April, 2023, and by the Town Council of the Town of Bartonville on the 18th day of April, 2023, with respect to the zoning change described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the Town Council of the Town of Bartonville, Texas does hereby deem it advisable and in the public interest to amend Ordinance 361-05, Zoning Regulations for the Town of Bartonville, as amended, and the Official Zoning Map of the Town, as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:

**SECTION 1.
INCORPORATION OF PREMISES**

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

**SECTION 2.
ORDINANCE 361-05 AMENDED**

Ordinance 361-05, Zoning Regulations for the Town of Bartonville, as amended, and the Official Zoning Map of the Town of Bartonville is hereby amended so as to change the zoning classification of approximately 10.076 acres located at the Southeast Corner of McMakin and East Jeter Roads in the Town of Bartonville, as more particularly described in Exhibit "A" attached hereto, and incorporated herein for all purposes, from a zoning designation of "RB" Rural Business to a Zoning Designation of "RE-2" Residential Estate.

**SECTION 3.
OFFICIAL ZONING MAP AMENDED**

The Town Secretary is hereby directed to amend the official zoning map to reflect the changes in classification approved herein.

**SECTION 4.
CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of Ordinances of the Town of Bartonville, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

**SECTION 5.
SEVERABILITY**

It is hereby declared to be the intention of the Town Council of The Town of Bartonville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Town Council

without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6. SAVINGS

All rights and remedies of the Town of Bartonville are expressly saved as to any and all violations of the provisions of any Ordinances affecting zoning classifications or changes in zoning classifications, 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. ENGROSSMENT AND ENROLLMENT

The Town Secretary of the Town of Bartonville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the Town Council of the Town of Bartonville and by filing this Ordinance in the Ordinance records of the Town.

SECTION 8. PUBLICATION

The Town Secretary of the Town of Bartonville is hereby directed to publish in the Official Newspaper of the Town of Bartonville the Caption and the Effective Date of this Ordinance for two (2) days.

SECTION 9. PUNISHMENT

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the Town of Bartonville, Texas, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 10.

This Ordinance shall take effect immediately from and after its passage and publication, as the law provides.

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PASSED AND APPROVED by a vote of ____ to ____ this the 18th day of April, 2023.

ATTEST:

APPROVED:

Tammy Dixon, Town Secretary

Jaclyn Carrington, Mayor

Exhibit A
Field Notes 10.076 Acres

Tract I:

WHEREAS, Being a 0.573 acre tract of land situated in the B.B.B. & C.R.R. Co. Survey, Abstract No. 152, in the Town of Bartonville, Denton County, Texas, and being that same tract of land described by deed to McMakin Ten Acre, LLC, as recorded in Document No. 2017-129585, of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a ½ inch iron rod with yellow cap marked “Arthur Surveying Company” set for the northeast corner of the herein described tract, same point being the northernmost northwest corner of Lot 1 of Kincade Subdivision, an addition to the Town of Bartonville, Denton County, Texas, according to the Plat thereof recorded in Cabinet C, page 129 of the Plat Records of Denton County, Texas, same point being in the south line of F.M. Road No. 407 (a variable width right-of-way);

THENCE South 00 degrees 43 minutes 14 seconds West, with a west line of said Lot 1, a distance of 121.66 feet to a ½ inch iron rod found for corner;

THENCE South 84 degrees 52 minutes 41 seconds West, with a north line of said Lot 1, a distance of 215.00 feet to a ½ inch iron rod with yellow cap marked “Arthur Surveying Company” set for corner next to a wood cross tie set in concrete for corner in the east line of McMakin Road (a variable width right-of-way);

THENCE North 00 degrees 56 minutes 29 seconds West, with the east line of said McMakin Road, a distance of 111.10 feet to a ½ inch iron rod with yellow cap marked “Arthur Surveying Company” set for corner in the south line of said F.M. Road No. 407;

THENCE North 82 degrees 06 minutes 00 seconds East, with the south line of said F. M. Road No. 407, a distance of 216.49 feet to the POINT OF BEGINNING and containing a total of 0.573 acre of land more or less, and being subject to any and all easements that may be in effect.

Tract II:

Being Lot 1 of Kincade Subdivision, an addition to the Town of Bartonville, Denton County, Texas, according to the plat recorded in Cabinet C, Page 129, Plat Records, Denton County, Texas, containing 9.503 acres.