

**TOWN OF BARTONVILLE
ORDINANCE NO. _____-23**

AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING THE TOWN OF BARTONVILLE CODE OF ORDINANCES, CHAPTER 14, ARTICLE 14.02, EXHIBIT "A," ORDINANCE NO. 361-05, THE ZONING ORDINANCE, BY AMENDING CHAPTER 13, GENERAL COMMERCIAL DISTRICT (GC), ARTICLE 13.2, USES PERMITTED, BY GRANTING A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A DRIVE THROUGH USE ON AN APPROXIMATELY 1.9589 ACRE-SITE THAT IS PART OF LOT 1, BLOCK 1, PHASE II OF LANTANA TOWN CENTER, LOCATED ON THE NORTHERN SIDE OF FM 407 AND JUSTIN ROAD AT BLANCO DRIVE; PROVIDING FOR THE REPEAL OF ALL OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR NO VESTED RIGHTS; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING FOR 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, as a general law municipality, is 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, the Planning and Zoning Commission of the Town of Bartonville and the Town Council of the Town of Bartonville, in compliance with state law with reference to amending the Zoning Ordinance, have given the requisite notice by publication and otherwise, and after holding due public hearings and affording full and fair hearings to all property owners generally, the Town Council of the Town of Bartonville, Texas, is of the opinion that said zoning ordinance should be amended as provided 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. CUP GRANTED

The Zoning Ordinance for the Town of Bartonville, Texas, as amended, is hereby amended by granting a Conditional Use Permit (CUP) to allow for the operation of a drive through use on approximately 1.9589-acre tract of land that is part of Lot 1, Block 1, Phase II of Lantana Town Center, generally located on the northern side of FM 407 and Justin Road at Blanco Drive, in Bartonville, Texas. The official zoning map of the Town of Bartonville, Texas, shall be amended to reflect the CUP granted by this Ordinance, which includes the following conditions:

1. Security personnel shall be provided by the owner/operator of the drive-through use business at no cost to the Town of Bartonville, as follows:
 - a. If the drive-through use business is open for business from 12:00 a.m. midnight up to and including 4:00 a.m. on a Saturday and/or Sunday, then a single peace officer shall be provided to be present on-site as security during the hours the business is open from 12:00 a.m. to 4:00 a.m.;
 - b. The term "peace officer" as used herein means a person elected, appointed or employed as a peace officer under Article 2.12, Texas Code of Criminal Procedure, or other law;
 - c. Each peace officer providing security shall be paid a standard hourly rate as agreed upon between the Chief of Police of the Bartonville Police Department and the owner/operator of the drive-through use business, with a two (2)-hour minimum payment required, and payment to each peace officer shall be made by the owner/operator of the drive-through use business at the beginning of the time the peace officer arrives on-site in sufficient monetary amount to pay said peace officer for the minimum payment amount required hereunder, or for the entire security time period, whichever is greater; and
 - d. The failure to comply with the above security personnel requirements, including the under-payment of a peace officer, will result in the closure of the drive-through use business until such time as the above security personnel requirements are satisfied.
2. The menu speakers at the drive-through locations on the property shall not exceed two feet (2') in height, and shall be located on the eastern side of the building and positioned at the area of car location number 7 as shown on the inside drive-through lane indicated on the site plan, page C 7. 0, entitled "Site and Dimension Control Plan," and shall be pointed toward the golf course and landscaping berm on the adjacent property.
3. The menu boards at the drive-through locations on the property shall not be pointed towards the direction of Blanco Drive, and shall be located on the eastern side of the building and positioned at the area of car location number 7

as shown on the inside drive-through lane indicated on the site plan, page C 7.0, entitled "Site and Dimension Control Plan," and shall be pointed toward the golf course and landscaping berm on the adjacent property.

4. Trash receptacles shall be placed at each drive-through location and at each exit drive from the property and shall be added and designated on the approved site plan.
5. No outdoor music is allowed to be broadcast on the property or from the property.

SECTION 3. REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall be cumulative of all provisions of Ordinances of the Town 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. More specifically, Town Ordinance No. 737-22, an ordinance that previously adopted a Conditional Use Permit for this Property, is hereby repealed in its entirety.

SECTION 4. SEVERABILITY

It is hereby declared to be the intention of the Town Council of the Town of Bartonville, Texas, 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 such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 5. SAVINGS

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Town of Bartonville Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. ENGROSS AND ENROLL

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 7.
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 8.
PENALTY**

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 Bartonville Zoning Ordinance as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 9.
NO VESTED RIGHTS**

No person or entity shall acquire any vested rights in this Ordinance or any specific regulations contained herein. This Ordinance and any regulations may be amended or repealed by the Town Council of the Town of Bartonville, Texas, in the manner provided by law.

**SECTION 10.
EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

AND IT SO ORDAINED.

DULY PASSED AND APPROVED by the Town Council of the Town of Bartonville, Texas, on the 25th day of July, 2023.

APPROVED:

Jaclyn Carrington, Mayor

ATTEST:

Shannon Montgomery, Town Secretary