PLANNING AND ZONING COMMISSION MEETING AGENDA

October 07, 2026 at 6:30 PM

Town Hall - 1941 E. Jeter Road, Bartonville, TX 76226

A. CALL MEETING TO ORDER

B. PLEDGE OF ALLEGIANCE

C. PUBLIC PARTICIPATION

If you wish to address the Commission, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, citizens wishing to address the Commission for items listed as public hearings will be recognized when the public hearing is opened. For citizens wishing to speak on a non-public hearing item, they may either address the Commission during the Public Participation portion of the meeting or when the item is considered by the Planning & Zoning Commission.

D. PRESENTATIONS

1. Statement of Appointed Official and Oath of Office to the newly appointed and reappointed Commissioners.

2. Appreciation of Planning & Zoning Commissioner Ralph Arment.

E. APPOINTMENT OF OFFICER

1. Appointment of Vice Chair.

F. APPROVAL OF MINUTES

1. Discuss and consider the approval of the June 3, 2026 Planning & Zoning Commission Meeting Minutes.

G. PUBLIC HEARINGS AND REGULAR ITEMS

1. Discussion of amendments to the Town of Bartonville Code of Ordinances, Chapter 10, Exhibit 10A (Development Ordinance); Chapter 14, Exhibit 14A (Zoning Ordinance); and Appendix A (Fee Schedule) to remove and/or update obsolete regulations or those that conflict with current state and federal law. The Town of Bartonville File Number is **ZON-2026-003**.

H. FUTURE ITEMS

I. ADJOURNMENT

The Planning and Zoning Commission reserves the right to recess into a closed meeting or executive session as authorized by Chapter 551 of the Texas Government Code, (the Texas Open Meetings Act) on any item posted on its open meeting agenda to seek legal advice pursuant to Texas Government Code Section 551.071, Consultation with Attorney of the Texas Open Meetings Act. Any final action,

decision, or vote on a matter deliberated in a closed meeting will only be taken in an open meeting that is held in compliance with Texas Government Code, Chapter 551.

CERTIFICATION

I hereby certify that this Notice of Meeting was posted on the Town Website, and on the bulletin board, at Town Hall of the Town of Bartonville, Texas, a place convenient and readily accessible to the public at all times. Said Notice was posted on the following date and time; and remained posted continuously prior to the scheduled time of said meeting and shall remain posted until meeting is adjourned.

/s/ Shannon Montgomery, Town Secretary

Posted: Thursday, October 1, 2026, prior to 5:00 pm.

Agenda Removed from Town of Bartonville Bulletin Board on: _____

By: _____, Title: _____

PLANNING & ZONING COMMISSION COMMUNICATION

DATE: October 7, 2026

FROM: Shannon Montgomery, Town Secretary

AGENDA ITEM: Discuss and consider the approval of the June 3, 2026 Planning & Zoning Commission Meeting Minutes.

SUMMARY:

Minutes from June 3, 2026, Planning & Zoning Commission Regular Meeting.

STAFF RECOMMENDATION:

Approve as presented.

ATTACHMENTS:

- DRAFT June 3, 2026, Planning & Zoning Commission Regular Meeting Minutes.

THE PLANNING AND ZONING COMMISSION OF THE TOWN OF BARTONVILLE MET IN REGULAR SESSION ON THE 3RD DAY OF JUNE 2026 AT THE TOWN OF BARTONVILLE TOWN HALL, LOCATED AT 1941 E JETER ROAD, BARTONVILLE, TEXAS WITH THE FOLLOWING COMMISSIONERS PRESENT, CONSTITUTING A QUORUM:

Gloria McDonald, Chair
Don Abernathy, Commissioner
Pat Adams, Commissioner
Brenda Hoyt-Stenovitch, Commissioner
Rick Lawrence, Alternate 1
Rebecca Jenkins, Alternate 2

Commissioners Absent:
Ralph Arment, Commissioner

Town Staff Present:
Kirk Riggs, Town Administrator
Shannon Montgomery, Town Secretary
Jeremy Page, Town Attorney
Ryan Wells, Town Planning Consultant

A. CALL MEETING TO ORDER

Chair McDonald called the meeting to order at 6:30 pm.

B. PLEDGE OF ALLEGIANCE

Chair McDonald led the Pledge of Allegiance.

C. PUBLIC PARTICIPATION

If you wish to address the Commission, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, citizens wishing to address the Commission for items listed as public hearings will be recognized when the public hearing is opened. For citizens wishing to speak on a non-public hearing item, they may either address the Commission during the Public Participation portion of the meeting or when the item is considered by the Planning & Zoning Commission.

There was no public participation.

D. APPROVAL OF MINUTES

1. Discuss and consider the approval of the April 1, 2026, Planning & Zoning Commission Meeting Minutes.

Motion made by Commissioner Hoyt-Stenovitch, seconded by Commissioner Abernathy, to **APPROVE** the April 1, 2026, Planning & Zoning Commission Meeting Minutes as presented.

VOTE ON THE MOTION

AYES: Abernathy, Adams, Hoyt-Stenovitch, Lawrence, and McDonald
NAYS: None
VOTE: 5-0

DRAFT

E. PUBLIC HEARINGS AND REGULAR ITEMS

1. Conduct a Public Hearing to hear public comment, discuss, and take action on a Conditional Use Permit and Site Plan on property zoned General Commercial – Planned Development (GC-PD) on Block 2C, Lot 1R of the Carlisle Addition, Phase C, an approximate 2.0549-acre tract of land situated in the E. P. Holman Survey, Abstract No. 65, Town of Bartonville, Denton County, Texas. The property is generally located at the northeastern corner of FM 407 and Blanco Drive in Bartonville, Texas. The Town of Bartonville file numbers for this application are CUP-2026-002 and SP-2026-001.

Chair McDonald opened the Public Hearing at 6:54 pm.

Town Secretary Montgomery stated that the Town had not received any responses from the mailed Public Notices.

The following spoke before the Planning & Zoning Commission:

- Robert Middle, 9741 Blanco Drive, Lantana, Texas – OPPOSED
- Tricia Middle, 9741 Blanco Drive, Lantana, Texas – OPPOSED
- Rudy Garcia, 9740 Blanco Drive, Lantana, Texas – OPPOSED
- Troy Stephenson, 9730 Blanco Drive, Lantana, Texas – OPPOSED
- Phyllis Stephenson, 9730 Blanco Drive, Lantana, Texas – OPPOSED

Chair McDonald closed the Public Hearing at 7:16 pm.

Motion made by Commissioner Hoyt-Stenovitch, seconded by Commissioner Abernathy, to recommend **APPROVAL** of a request for a **Conditional Use Permit** on property zoned General Commercial – Planned Development (GC-PD) on Block 2C, Lot 1R of the Carlisle Addition, Phase C, an approximate 2.0549-acre tract of land situated in the E. P. Holman Survey, Abstract No. 65, Town of Bartonville, Denton County, Texas with the following **CONDITIONS**:

1. The proposed screening fence on the north side of the property shall be installed prior to issuance of a certificate of occupancy for the proposed building and shall meet all design requirements found in Bartonville Zoning Ordinance Section 13.3.C.14. A revised screening wall detail shall be reflected on a revised site plan to be reviewed and approved by Town staff prior to issuance of a building permit.
2. No outside speaker box shall be allowed.

VOTE ON THE MOTION
AYES: Abernathy, Adams, Hoyt-Stenovitch, Lawrence, and McDonald
NAYS: None
VOTE: 5-0

Motion made by Commissioner Abernathy, seconded by Commissioner Adams, to recommend **APPROVAL** of a request for a **Site Plan** on property zoned General Commercial – Planned Development (GC-PD) on Block 2C, Lot 1R of the Carlisle Addition, Phase C, an approximate 2.0549-acre tract of land situated in the E. P. Holman Survey, Abstract No. 65, Town of Bartonville, Denton County, Texas with the following **CONDITIONS**:

DRAFT

1. All parking area lighting shall be installed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in BZO Section 13.3.7 and Chapter 28.
2. The trash receptacle shall be screened with an eight-foot-tall screen constructed of masonry materials of like and similar materials to those of the primary structure.
3. Prior to issuance of a certificate of occupancy for the proposed building, a replat of Lot 1R, Block 2C, Carlisle Addition shall be approved by the Town and recorded with the Denton County Clerk. This replat shall include the fire lane easement as depicted on the site plan, and a public drainage easement along the front (west side) of the property encompassing the open drainage ditch along FM 407.
4. All fire lane turn radii shall be a minimum of 20 feet. This shall be reflected on a revised site plan to be reviewed and approved by Town staff prior to issuance of a building permit.
5. The driveway from the site onto FM 407 shall be a right-in/right-out, with a raised porkchop directing ingress and egress. This shall be reflected on a revised site plan to be reviewed and approved by Town staff prior to issuance of a building permit.
6. The applicant shall obtain a TxDOT 1058 driveway permit, a copy of which shall be provided to the Town prior to site construction. Final driveway location and design shall be subject to TxDOT determination.

VOTE ON THE MOTION
AYES: Abernathy, Adams, Hoyt-Stenovitch, Lawrence, and McDonald
NAYS: None
VOTE: 5-0

F. FUTURE ITEMS
Discussion only, no action taken.

G. ADJOURNMENT
Chair McDonald adjourned the meeting at 7:50 pm.

APPROVED this the 7th day of October 2026.

APPROVED:

_____
Gloria McDonald, Chair

ATTEST:

_____
Shannon Montgomery, TRMC, Town Secretary

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PLANNING AND ZONING COMMUNICATION

DATE: October 7, 2026

FROM: Ryan Wells, AICP, CFM, Town Planning Consultant

AGENDA ITEM: Discussion of amendments to the Town of Bartonville Code of Ordinances, Chapter 10, Exhibit 10A (Development Ordinance); Chapter 14, Exhibit 14A (Zoning Ordinance); and Appendix A (Fee Schedule) to remove and/or update obsolete regulations or those that conflict with current state and federal law. The Town of Bartonville File Number is ZON-2026-003.

Summary: The Bartonville Code of Ordinances is comprised of fourteen (14) chapters and three (3) appendices. Chapter 10 contains the regulations for subdivisions and development, while Chapter 14 contains the zoning regulations. Appendix A is the current fee schedule. These chapters were originally adopted in their current form in 2003, with numerous specific updates occurring over the subsequent years. In February 2025, at the request of the Mayor and Planning & Zoning Commission Chair, the Town's Planning Consultant performed an audit of the development and zoning ordinances to 1) to identify recommended updates to the Bartonville Development and Zoning Ordinances to align with the Goals and Objectives of the Bartonville Comprehensive Plan; 2) to identify obsolete regulations within the Development and Zoning Ordinances or those that conflict with current state and federal law; and 3) to provide recommendations for application of best practices for subdivision regulations within the Development Ordinance and land use regulations within the Zoning Ordinance. In April 2025, this list was refined to specifically identify those regulations within the applicable ordinances that were considered higher priority and that resulted in conflicts with current state and federal law. The changes recommended in the refined, high-priority letter are those reflected in the attached ordinance.

The attached amendments to the Town of Bartonville Code of Ordinances, Chapter 10, Exhibit 10A (Development Ordinance); Chapter 14, Exhibit 14A (Zoning Ordinance); and Appendix A (Fee Schedule) includes the redline changes to the current ordinance language that are intended to bring the Town's Development and Zoning Code in compliance with current state and federal law. The review and amendments also considered the most recent (89th) legislative session and the bills passed therein, though this occurred after the completion of the April 2025 code audit letter. The bills that were reviewed against the code and informed amendments to the language, where applicable, were:

- HB 24 (2025) - Zoning Amendments and Protests
- HB 2464 (2025) - Home-Based Businesses
- HB 1522 (2025) - Open Meetings Act Notice
- HB 2844 (2025) - Mobile Food Vendor Regulation Preemption
- HB 4163 (2025) - Agricultural Operations
- SB 1341 (2025) - Manufactured Homes
- SB 541 (2025) - Cottage Food Production Deregulation

- SB 599 (2025) - Regulation of Child-Care Facilities
- SB 923 (2023) - Nonconforming Use Procedures

Exhibits:

1. Proposed Amendments to the Bartonville Development Ordinance, the Bartonville Zoning Ordinance, and Appendix A to the Code of Ordinances

Exhibit 1

Exhibit 10A
DEVELOPMENT ORDINANCE

Part I
GENERAL PROVISIONS

§ 1.1. Authority.
§ 1.2. Interpretation and Purpose.
§ 1.3. Application of Regulations.
§ 1.4. Jurisdiction.
§ 1.5. Exemptions.
§ 1.6. Applicable Law.
§ 1.7. Interpretation; Conflict; Severability.
§ 1.8. Saving Provision.
§ 1.9. Superseding Regulations.
§ 1.10. Amendments.
§ 1.11. Waivers/Suspensions.
§ 1.12. Enforcement; Violations; Penalties.
§ 1.13. Payment of All Indebtedness Attributable to a Specific Property.
§ 1.14. Right to Deny Hearing and/or Plat.
§ 1.15. Misrepresentation of Facts Unlawful.
§ 1.16. Definitions.

Part II
PROCEDURES

§ 2.1. Pre-Application Procedures.
§ 2.2. Statutory Procedures.
~~§ 2.3. Procedures and Submission Requirements for Sketch Plat Approval.~~
~~§ 2.4. Procedures and Submission Requirements for Land Study Approval.~~
§ 2.~~5~~3. Procedures and Submission Requirements for Preliminary Plat Approval.
§ 2.~~6~~4. Procedures and Submission Requirements for Final Plat Approval.
§ 2.~~7~~5. Final Plats (Information and Format Requirements).
§ 2.~~8~~6. Development Plats.
§ 2.~~9~~7. Replatting.
§ 2.~~10~~8. Amending Plats.
§ 2.~~11~~9. Plat Vacation.
§ 2.~~12~~10. Minor Plats and Minor Replats.

Part III
SUBDIVISION DESIGN STANDARDS

§ 3.1. Streets.
§ 3.2. Alleys.
§ 3.3. Easements.
§ 3.4. Blocks.
§ 3.5. Lots.
§ 3.6. Building Lines.
§ 3.7. Utility Services (not provided by the Town of Bartonville).
§ 3.8. Water and Wastewater Facility Design.
§ 3.9. Stormwater Collection/ Conveyance Systems.

Part IV
PUBLIC SITES AND OPEN SPACES

§ 4.1. Areas for Public Use.
§ 4.2. Protection of Drainage and Creek Areas.
§ 4.3. Property/Homeowners' Associations.

Part V
IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE TOWN

§ 5.1. **Improvements.**
§ 5.2. **Monuments.**
§ 5.3. **Street Names and Signs.**
§ 5.4. **Street Improvements.**
§ 5.5. **Retaining Wall Requirements, Construction Regulations, and Design Criteria.**
§ 5.6. **Landscaping Construction Regulations, Requirements and Design Criteria.**
§ 5.7. **Water and Sewer Requirements.**
§ 5.8. **Improvement of Adjacent (Perimeter) Streets and Utilities.**
§ 5.9. **Storm Drainage.**

Part VI
REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE TOWN OF BARTONVILLE

§ 6.1. **Withholding Town Services and Improvements Until Acceptance.**
§ 6.2. **Guarantee of Public Improvements.**
§ 6.3. **Temporary Improvements.**
§ 6.4. **Government Units.**
§ 6.5. **Failure to Complete Improvements.**
§ 6.6. **Acceptance of Dedication Offers.**
§ 6.7. **Maintenance and Guarantee of Public Improvements.**
§ 6.8. **Construction Procedures.**
§ 6.9. **Inspection of Public Improvements.**
§ 6.10. **Deferral of Required Improvements.**
§ 6.11. **Issuance of Building Permits and Certificates of Occupancy.**

Part VII
FILING FEES & PLAT SUBMISSION REQUIREMENTS

§ 7.1. **Schedule of Fees and Submission Requirements.**

Part VIII
ADOPTION

§ 8.1. **Adoption of Ordinance.**

[Ordinance 336-03]

Part I
GENERAL PROVISIONS

§ 1.1. Authority.

The following rules and regulations are hereby adopted as the Development Ordinance of the Town of Bartonville, Texas, also known and cited as the "Bartonville Development Ordinance," and shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate Town limits of the Town of Bartonville, as they may be from time to time adjusted by annexation or disannexation, as provided by Chapter 43 of the Texas Local Government Code, and within all the areas of the extraterritorial jurisdiction of the Town of Bartonville, as that area may exist from time to time as provided by Chapter 42 of the Texas Local Government Code. The Town shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the Town and within its extraterritorial jurisdiction, as provided for in Section 242.001 of the Texas Local Government Code.

(Ordinance 336-03 adopted 11/18/03)

§ 1.2. Interpretation and Purpose.

In the interpretation and application of the provisions of these regulations, it is the intention of the Town Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the Town of Bartonville and its extraterritorial jurisdiction, and repealing the previous Subdivision Ordinance in its entirety.

The subdivision of land is the first step in the process of development of vacant land. The distribution and relationship of residential, commercial, industrial and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are designed and intended to encourage the development of a quality living environment by establishing standards for the provision of adequate light, air, open space, stormwater drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this Ordinance further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic and environmental conditions.

The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the Town of Bartonville, Texas are intended to:

a. Promote the development and the utilization of land in a manner that assures the best possible community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the Town of Bartonville;

b. Guide and assist the developers in the correct procedures to be followed, and to inform them of the standards which shall be required;

c. Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities and essential areas and services required;

d. Assist orderly, efficient and coordinated development within the Town limits and extraterritorial jurisdiction;

e. Provide neighborhood conservation and prevent the deterioration of existing developed areas;

f. Harmoniously relate the development of various tracts of land to the existing community, and facilitate the future development of adjoining tracts;

g. Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance;

h. Provide the best possible design for each tract being subdivided;

i. Provide the most attractive relationship between the uses of land and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;

j. Prevent pollution of the air, streams and ponds; assure the adequacy of drainage facilities; safeguard both surface and ground water supplies; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;

k. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;

l. Establish adequate and accurate records of land subdivision;

m. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future subdivisions and developments within the Town and its extraterritorial jurisdiction;

n. Protect and provide for the public health, safety and general welfare of the community;

o. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;

p. Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;

q. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings; and

r. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities~~; and~~.

Minimum standards for development are contained in the Town's Engineering Design Standards (EDS), related technical standards, the Zoning Ordinance, the Building Code and in this Ordinance. However, the Comprehensive Plan and Future Land Use Plan express policies designed to achieve an optimum quality of development throughout the Town of Bartonville. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This may tend to produce a monotonous pattern of physical growth and build-out. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein.

(Ordinance 336-03 adopted 11/18/03)

§ 1.3. Application of Regulations.

No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with the Development Ordinance. Furthermore, no ~~building permit, certificate of occupancy, plumbing permit, electrical permit,~~ floodplain permit or certificate of acceptance for required public improvements shall be issued by the Town for any parcel of land or plat until:

a. A final plat has been approved in accordance with these regulations; and

b. All improvements, as required by these regulations, have been constructed and accepted by the Town of Bartonville, or

c. Assurances for completion of improvements have been provided in accordance with Section VI.

A final plat shall be recorded in accordance with the requirements set forth by the Town of Bartonville and Denton County prior to the issuance of a building permit, certificate of occupancy, plumbing permit, or electrical permit.

(Ordinance 336-03 adopted 11/18/03)

§ 1.4. Jurisdiction.

The provisions of this Development Ordinance, as authorized by Subchapters A and B of Chapter 212 of the Texas Local Government Code, including the Engineering Design Standards (EDS), shall apply to the following forms of land subdivision and development activity within the Town's limits and its extraterritorial jurisdiction:

a. The division of land into two or more tracts, lots, sites or parcels; or

b. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the Town's subdivision regulations in Denton County, Texas and which subsequently came within the jurisdiction of the Town's subdivision regulations through:

   1. Annexation; or

   2. Extension of the Town's extraterritorial jurisdiction; or

c. The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or

d. When a building permit is required for the following uses:

1. Residential

A. New construction

B. Moving of a primary structure onto vacant property

2. Nonresidential

A. New construction

B. Additions (increasing square footage of existing building by more than twenty percent (20%) of the gross floor area); or

C. Moving a primary structure onto vacant property; or

e. For tracts where any public improvements are proposed; or

f. Whenever a property owner proposes to divide land lying within the Town or its extraterritorial jurisdiction into two or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five (5) acres in size; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050. (See Section 2.~~7 [2.8]~~6 of this Ordinance for requirements for development plats.)

(Ordinance 336-03 adopted 11/18/03)

§ 1.5. Exemptions.

The provisions of this Development Ordinance shall not apply to:

a. Development of land legally platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein (construction of facilities shall conform to construction standards in effect at the time of construction) and for which no resubdivision is sought; or

b. Development of a lot of record for which a legally approved and recorded plat was filed of record in the Plat Records of Denton County, Texas prior to July, 1973; or

c. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, subdivision or alteration is occurring; or

d. Existing cemeteries complying with all State and local laws and regulations (does not apply to new cemeteries or expansion of existing cemeteries); or

e. Divisions of land created by order of a court of competent jurisdiction; or

f. When a building permit is requested for unplatted or already platted parcels for the following activities:

1. Replacement or reconstruction of an existing primary residential structure, but not to exceed the square footage of the original structure
2. Additions (i.e., increasing square footage of structure) of not over fifty percent (50%) of the existing structure's value, and of not over twenty percent (20%) of the gross floor area
3. Accessory buildings
4. Remodeling or repair (i.e., no expansion of square footage)
5. Moving a structure off a lot or parcel, or for demolition permits.

(Ordinance 336-03 adopted 11/18/03)

§ 1.6. Applicable Law.

All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance.

(Ordinance 336-03 adopted 11/18/03)

§ 1.7. Interpretation; Conflict; Severability.

a. Interpretation. In their interpretation and application, the provisions of the regulations contained in the Development Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

b. Conflict With Other Laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. To the extent that the Development Ordinance promulgates standards or imposes restrictions or duties which differ from those imposed by other Town ordinances, rules or regulations, the regulations contained within the Development Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.

c. Severability. If any part or provision of the Development Ordinance, or the application of these regulations to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

(Ordinance 336-03 adopted 11/18/03)

§ 1.8. Saving Provision.

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right

of the Town under any section or provision existing at the time of adoption of the Development Ordinance, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the Town except as shall be expressly provided in these regulations. (Ordinance 336-03 adopted 11/18/03)

§ 1.9. Superseding Regulations.

Upon adoption of the Development Ordinance according to law, all other subdivision regulations of the Town of Bartonville previously in effect are hereby repealed, except as provided in Sections 1.6 and 1.7.

(Ordinance 336-03 adopted 11/18/03)

§ 1.10. Amendments.

For the purpose of protecting the public health, safety and general welfare, the Planning and Zoning Commission and/or Town Council may, from time to time, propose amendments to these regulations which shall then be approved or disapproved by the Town Council at a public meeting, and which shall then be amended through adoption of an amending ordinance following due process and public hearing.

(Ordinance 336-03 adopted 11/18/03)

§ 1.11. Waivers/Suspensions.

a. General. Where the Town Council finds that unreasonable hardships or difficulties may result from strict compliance with a certain provision(s) of the Development Ordinance, and/or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver/suspension from portions of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver/suspension shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the Town Council shall not approve a waiver/suspension unless it shall make findings based upon the evidence presented to it in each specific case that:

1. Granting the waiver/suspension will not be detrimental to the public safety, health or welfare, and will not be injurious to other property;

2. The conditions upon which the request for a waiver/suspension is based are unique to the property for which the waiver/suspension is sought, and are not applicable generally to other property;

3. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

4. The waiver/suspension will not in any manner vary the provisions of the Zoning Ordinance or Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, and other adopted plans, except that those documents may be amended in the manner prescribed by law;

5. An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

b. Criteria for Waivers/Suspensions From Development Exactions. Where the Town Council finds that the imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a waiver/suspension to such requirements, so as to prevent such excess.

c. Conditions. In approving a waiver/suspension, the Town Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

d. Procedures:

1. A petition for a waiver/suspension shall be submitted in writing by the property owner at the time when any type of plat (e.g., preliminary, final, replat, development plat, etc.) is filed for the consideration of the Planning and Zoning Commission and Town Council. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.

2. Where a hardship is identified ~~in a land study~~ which will result in a request for a waiver/suspension, the Planning and Zoning Commission may recommend a conditional waiver/suspension ~~in conjunction with land study approval. A conditional waiver/suspension shall~~in order for the final plat to receive final approval, ~~along with a final plat~~ provided that the final plat conforms to the previously approved ~~land study or~~ preliminary plat, if applicable, and that no new information or reasonable alternative plan exists which, at the determination of the Town Council, voids the need for a waiver/suspension. All waivers/suspensions shall have final approval or disapproval by the Town Council.

e. Criteria for Waivers/Suspensions for Street Exactions. Where the Town Council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve waivers/ suspensions for such requirements so as to prevent such excess. In order to qualify for a waiver/ suspension under this Section, the property owner shall demonstrate that the costs of right-of-way dedication and/or construction for non-local streets imposed pursuant to these regulations substantially exceeds the incremental costs of providing land and transportation improvements necessary to offset the additional traffic impacts generated by, or attributable to, the development upon the transportation network serving the property, including that which may be generated by or attributed to other phases to be platted.

(Ordinance 336-03 adopted 11/18/03)

§ 1.12. Enforcement; Violations; Penalties.

In addition to all other remedies and relief available to the Town at law or in equity for a violation of this Development Ordinance, the following non-exclusive forms of relief shall be available to the Town:

a. Violations and Penalties. Any person who violates any of these regulations for lands within the corporate boundaries of the Town shall be subject to a fine of not more than five hundred dollars ($500.00) per day, with each day constituting a separate violation, pursuant to the Texas Local Government Code, Chapter 54, as amended.

b. Civil Enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or abate a violation of these regulations, whether such violation occurs

with respect to lands within the corporate boundaries of the Town or within the Town's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

c. Withholding of Subdivision Acceptance. Pursuant to the provisions of Section VI, Requirements for Acceptance of Subdivisions by the Town of Bartonville, the Town may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this Development Ordinance including, but not limited to, the refusal to issue building permits and certificates of occupancy.

(Ordinance 336-03 adopted 11/18/03)

§ 1.13. Payment of All Indebtedness Attributable to a Specific Property.

No person who owes delinquent ad valorem taxes, delinquent paving assessments, or any other delinquent debts or obligations to the Town of Bartonville, and which are directly attributable to a piece of property, shall be allowed to record an approved plat or replat until the taxes, assessments, debts and/or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the Town Secretary has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts and/or obligations have been paid at the time of application for any subdivision approval. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1. ~~(i.e., land study or any type of plat).~~

(Ordinance 336-03 adopted 11/18/03)

§ 1.14. Right to Deny Hearing and/or Plat.

The Town shall have the right to deny a hearing and/or deny any ~~land study or~~ plat if the person or applicant proposing a subdivision of land does not submit the information required to be shown on a ~~land study/~~plat and the required application materials and fees as prescribed by this and other ordinances.

(Ordinance 336-03 adopted 11/18/03)

§ 1.15. Misrepresentation of Facts Unlawful.

a. Misrepresentation of Facts. It shall be unlawful for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance on any application for annexation, zoning, development or subdivision of property. Misrepresentation, or deliberate omission, of facts pertaining to the ~~land study or~~ plat shall constitute grounds for denial of the ~~land study/~~plat.

b. Penalties and Exceptions. If any applicant for such hearing, or any owner of property subject to such hearing, shall allow such hearing before the Planning and Zoning Commission and/or the Town Council to be heard in violation of any of the provisions of the Ordinance, such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as per Section 1.12.

(Ordinance 336-03 adopted 11/18/03)

§ 1.16. Definitions.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

a. *Addition.* A lot, tract or parcel of land lying within the corporate boundaries of the Town or its extraterritorial jurisdiction which is intended for the purpose of development.

b. *Administrative Officers.* Any office referred to in this Ordinance by title (i.e., Mayor/Town Manager, Town Attorney, Town Secretary, Building Official, Town Engineer, Town Planner, etc.), shall be the person so retained in this position by the Town, or his duly authorized representative (i.e., designee). This definition shall also include engineering, planning, legal and/or other consultants retained by the Town to supplement or support existing Town staff, as deemed appropriate by the Town.

~~b.~~c. *Administratively Complete.* An application for a preliminary plat, replat or final plat shall be considered administratively complete once the application is filed and Town staff and the Town Engineer have determined that the application for a preliminary plat, replat and/or final plat meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council.

~~c.~~d. *Alley.* A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street. Alleys are prohibited for all residential and nonresidential developments.

~~d.~~e. *Amended Plat.* A revised plat correcting errors or making minor changes to the original recorded final plat. Also termed "amending plat."

~~e.~~f. *Amenity.* An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.

~~f.~~g. *Base Flood.* The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

~~g.~~h. *Block Length.* For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street (i.e., not a cul-de-sac or dead-end/ looped street) to the intersecting centerpoint of another; or to the midpoint of a cul-de-sac. Also termed "street length."

~~h.~~i. *Bond.* Any form of a surety bond in an amount and form satisfactory to the Town.

~~i.~~j. *Building Setback Line.* The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street (or property) line.

~~j.~~k. *Capital Improvements Program (CIP).* The official proposed schedule of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by Town Council.

~~k.~~l. *Town.* The Town of Bartonville, Texas, together with all its governing and operating bodies.

~~l.~~m. *Town Engineer.* "Town Engineer" shall apply only to such registered professional engineer, or firm of registered professional consulting engineers, that has been specifically employed by the Town to assist in engineering-related matters.

~~m.~~n. *Mayor.* The person holding the position of Mayor.

~~n.~~o. *Commission.* The Planning and Zoning Commission of the Town.

~~o.~~p. *Comprehensive Plan.* The phrase "Comprehensive Plan" shall mean the Comprehensive Plan of the Town and adjoining areas as adopted by the Town Council and the Town Planning and Zoning Commission, including all its revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water/wastewater facilities, and other public and private developments and improvements.

~~p.~~q. *Concept Plan.* A sketch drawing of initial development ideas, sometimes superimposed upon a topographic map, to indicate generally the plan of development, and to serve as a working base for noting and incorporating suggestions of the Planning and Zoning Commission, Town Engineer, Town Planner, or others who are consulted prior to the preparation of the preliminary plat.

~~q.~~r. *Construction Plans or Drawings.* The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the Town as a condition of approval of the plat.

~~r.~~s. *Contiguous.* Lots are contiguous when at least one boundary line of one lot touches a boundary line, or lines, of another lot.

~~s.~~t. *Council.* The duly elected governing body of the Town of Bartonville, Texas.

~~t.~~u. *Cul-De-Sac.* A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround ("bulb"). The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

~~u.~~v. *Dead-End Street.* A street, other than a cul-de-sac, with only one outlet.

~~v.~~w. *Easement.* The word "easement" shall mean an area for restricted use on private property upon which the Town and/or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and/or other improvements or growths which in any way endanger or interfere with the construction, maintenance and/or efficiency of its respective systems within said easements. Public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

~~w. *EDS.* The Town of Bartonville's Engineering Design Standards for the construction of subdivision improvements. (See Appendix A of this Ordinance.)~~

x. *Engineering Design Standards (EDS).* Those standards and specifications established by the Town to ensure proper installation of the improvements required by this Ordinance. (See Appendix A of this Ordinance.)

y. *Escrow.* A deposit of cash with the Town in accordance with Town policies.

z. *Filing Date.* The date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by this Ordinance~~a preliminary plat, replat or final plat is considered by the Town to be administratively complete and is heard by either the Planning and Zoning Commission or Town Council~~.

aa. *Final Plat (also "Record Plat" or "File Plat").* The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the records of Denton County, Texas. An amended plat is also a final plat.

~~aa.~~bb. *Flag lot.* A residential lot having less than the required street frontage and the buildable area or front building line is located behind an adjacent lot fronting the same street, with access to said buildable area being provided by the strip of land having a width of less than the required street frontage.

~~bb.~~cc. *Improvement or Developer Agreement.* A contract entered into by the developer and the Town, by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

~~cc. *Land Study.* A general layout plan for an area proposed for partial or complete subdivision. The land study shall show the proposed locations of land uses, streets, phasing of development, existing trees with a minimum trunk diameter of six (6) inches as measured four (4) feet above the ground, compliance with the Town's Tree Preservation Ordinance (Ordinance No. 290-02), as amended [article 3.05 of the Code of Ordinances], important physical features, and other applicable information for the entire area to be subdivided.~~

dd. *Land Planner.* Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, and/or by actual experience and practice in the field of land planning.

ee. *Lot (also Lot of Record).* A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

ff. *Major Plat.* All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other Town Ordinance.

gg. *Minor Plat.* A subdivision resulting in four (4) or fewer lots, provided that the plat does not create any new easements for public facilities, or that the construction/development of said subdivision will not require the construction of any new street (or portion thereof) or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served by all required utilities and services.

If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., drainage facility, etc.), then the plat shall be classified as a major plat.

hh. *On-Site Facilities or Improvements.* "On-site" shall mean those existing or proposed facilities or improvements constructed within the property boundaries of the plat. "On-site" shall also mean those existing or proposed facilities required to be constructed or improved immediately adjacent to the property and which are required to serve the development. These include streets, water lines, sewer lines, storm drainage facilities, curbs and gutters, and any other construction or reconstruction needed to serve the property.

ii. *Off-Site Facilities or Improvements.* "Off-site" facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

jj. *Overlength Street (or Cul-De-Sac).*A street segment (or a cul-de-sac) which exceeds the maximum length allowed by this Ordinance (see Section 3.1), as measured along the centerline of the street from the intersection centerpoint of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting centerpoint of another (or to the midpoint of a cul-de-sac).

kk. *Pavement Width.* The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

ll. *Perimeter Street.* Any existing or planned street which abuts the subdivision or addition to be platted.

mm. *Person.* Any individual, association, firm, corporation, governmental agency, or political subdivision.

nn. *Planning and Zoning Commission.* The Planning and Zoning Commission of the Town of Bartonville, Texas. Same as "Commission."

oo. *Preliminary Plat.* The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, shown by superimposing a scale drawing of the proposed land division upon a topographic map and showing in plan view all existing and proposed drainage features and facilities, street layout, direction of curb flow and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

~~pp. (Reserved)~~

~~qq.~~pp. *Replatting.* "Replatting" (or to "replat") is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

~~rr.~~qq. *Right-of-Way.* A parcel of land occupied, or intended to be occupied, by a street. Where appropriate, "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water or sanitary/storm sewer facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels

adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.

~~ss.~~rr. *Street.* A right-of-way, however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

1. Major thoroughfares (arterial streets, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the community, and/ or to freeways or highways leading to other communities.

2. Collector streets ("feeder" streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.

3. Local residential streets (minor thoroughfares or streets, etc.) are primarily for providing direct vehicular access to abutting ~~residential~~ property.

~~tt.~~ss. *Street Improvements.* For the purpose of this Ordinance "street improvements" mean any street or thoroughfare, together with all appurtenances required by Town regulations to be provided with such street or thoroughfare, and including but not limited to sidewalks, drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic-control devices, streetlights and street signs, for which facilities the Town will ultimately assume the responsibility for maintenance and operation.

~~uu.~~tt. *Street Right-of-Way.* The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.

vv. *Subdivider.* Any person, or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, such as a developer, of land sought to be subdivided.

ww. *Subdivision (also "Addition").* A division or redivision of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of such limits, for the purpose of transfer of ownership; layout of any subdivision of any tract of land or addition; or for the layout of building lots or streets or other components for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

xx. *Substandard Street.* An existing street or road that does not meet the minimum specifications in the Standard Street Specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the Town's Thoroughfare Plan. A standard street is a street or road that meets or exceeds said standard specifications and its designation on the Town's Thoroughfare Plan.

yy. *Surveyor.* A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.

zz. *Temporary Improvements.* Improvements built and maintained by the property owner or subdivider that are needed to remedy a circumstance that is temporary in nature (e.g., a temporary drainage easement or erosion control device), and that will be removed upon completion of the subdivision or shortly thereafter (i.e., is not intended to be permanent).

aaa. *Thoroughfare Plan.* The formal plan for the expansion or construction of thoroughfares and the dedication of right-of-way as adopted by ordinance or resolution by the Town of Bartonville.

~~bbb. *Flag lot*means a residential lot having less than the required street frontage and the buildable area or front building line is located behind an adjacent lot fronting the same street, with access to said buildable area being provided by the strip of land having a width of less than the required street frontage.~~

~~ccc. *Administratively Complete.*An application for a preliminary plat, replat or final plat shall be considered administratively complete upon the occurrence of all of the following: (1) the Town staff and the Town Engineer have determined that the application for a preliminary plat, replat and/or final plat meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council; (2) the preliminary plat, replat and/or final plat has been placed on a duly posted agenda for the Planning and Zoning Commission or Town Council; and (3) the Planning and Zoning Commission or Town Council has taken action on the preliminary plat, replat and/or final plat.~~

(Ordinance 336-03 adopted 11/18/03; Ordinance 391-06, sec. 1, adopted 6/20/06; Ordinance 665-19, sec. 2, adopted 8/20/19)

Part II
PROCEDURES

§ 2.1. Pre-Application Procedures.

The subdivider(s) should avail themselves of the advice and assistance of the Town officials, and should consult early and informally with the Mayor/Town Manager, the Town Engineer, the Building Official, and/or other designated administrative officers before preparing ~~a land study or~~ any type of plat (e.g., a preliminary plat, final plat, development plat, amended plat, replat, etc.) in order to save time, money and to avoid unnecessary delays. Prior to formal application for approval of any ~~land study or~~ plat ~~(e.g., preliminary, final, amending, replat, development, etc.)~~, the subdivider(s) shall request and attend a pre-application conference with the Mayor (or designee), the Town Engineer, the Building Official, and any other pertinent Town official(s) in order to become familiar with the Town's development regulations and the development/subdivision process. At the pre-application conference, the developer/subdivider may be represented by his land planner, engineer and/or surveyor. (Ordinance 336-03 adopted 11/18/03)

§ 2.2. Statutory Procedures.

a. Zoning Requirements. A property within the Town's corporate limits that is being proposed for platting must be properly zoned for the proposed use(s) (see the Town of Bartonville's Zoning Ordinance and Zoning Map) before a preliminary or final plat can be approved or filed for record. In addition, the proposed development layout/subdivision design shown on the preliminary or final plat must be in conformance with all standards and requirements prescribed in the Town's Zoning Ordinance before the plat can be approved or filed. Noncompliance with the requirements of the zoning district in which the subject property is located (or lack of the proper zoning) shall constitute grounds for denial of the plat.

~~A land study may be submitted for review and may be approved without the proper zoning in place, but any such approval is only conditional and shall be subject to acquisition of the proper zoning within one (1) year of the land study approval date. If the proper zoning is not acquired by that time, the approved land study shall expire and shall become null and void.~~

b. Classification of Subdivisions and Additions. Before any land is platted (i.e., filed for record), the property owner shall apply for and secure approval of the proposed subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance. Subdivisions are classified as major or minor (see definitions), depending upon the number of lots to be created and upon whether or not any public improvements will be required to develop the property.

1. Minor subdivisions shall create no more than four (4) lots, and every lot within a minor subdivision shall already be served by all required utilities and services pursuant to this and other applicable Town ordinances. If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., drainage facility, etc.), or if an easement(s) for any public facility(s) must be established on the plat, then the subdivision (and its corresponding plat) shall be classified as a major subdivision (and plat) and shall be processed/approved as such. Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval requires the submission of a final plat drawing and other submission materials (see Section 2.~~11 [2.12]~~10) similar to a final plat, except that the minor plat may be approved by both the Mayor and the Planning and Zoning Commission Chairman. A minor plat that is denied by the Mayor and the Planning and Zoning Commission Chairman may be appealed to Planning and Zoning

Commission using the procedures set forth in Section 2.4f [2.5f5f]. Lots may be conveyed (i.e., sold) only when the minor plat has been approved and the plat has been filed at Denton County.

2. Major subdivisions involve the creation of new streets, the construction/extension of a municipal facility(s), the establishment of an easement(s) or right(s)-of-way for any public facility or roadway, and/or the creation of more than four (4) lots. Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major plat typically requires three two steps: land study (or concept plan for nonresidential property), preliminary plat and final plat (see Sections 2.3 through 2.6 5 [2.4 through 2.7] for applicability and requirements for each). A concept plan or preliminary site plan (see Zoning Ordinance) that includes sufficient information to provide for the proper coordination of the development may serve as a land study for nonresidential property if authorized by the Town Planner. Major plat approval shall be in accordance with Sections

2.4 through 2.6 [2.5 through 2.7]. Upon completion of the required public improvements (or upon submission and Town approval of the appropriate surety for public improvements), the final plat may be filed for record at thewith Denton County. All major subdivision plats must be considered by the Planning and Zoning Commission and approved by Town Council, pursuant to Sections 2.4 3 through 2.8 5[2.5 through 2.9]. Lots may be sold only when the final plat has been approved by the Town, all public improvements have been constructed (or appropriate surety has been provided), and the plat has been filed at Denton County (i.e., if the land is required to be platted, no conveyance/sale of any portion/lot of the property may occur until after the final plat is approved by the Town and filed at the County).

c. Submission Requirements. In addition to the requirements outlined herein for each type of development application, the Town shall maintain separate policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists, language blocks for plats, and other similar items (forms and paperwork are available at the office of the City Secretary). These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, said policies and procedures.

d. (Reserved)

e.d. Action by Planning and Zoning Commission or Town Council. See sections 2.5 3 and 2.64, below.

f. Simultaneous Submission of Plats.In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.4(c) [2.5(c)], the Town Secretary shall schedule both plat applications for consideration by the Planning and Zoning Commission within thirty (30) days of the official submission date, unless the applicant has executed a waiver of the 30-day review period (in writing) for one or both plats. If the preliminary plat has not received approval prior to consideration of the final plat by the Commission, then the Commission shall deny the final plat application.

g.e. Proof of Land Ownership. In the public interest, the Town requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification (e.g., a notarized statement, power of attorney, etc.) that he/she is the owner of record of the subject land parcel

(or the owner's authorized agent). The Town Secretary shall have the authority to determine what document(s) the Town will require to prove ownership, such as one of the following:

1. General warranty deed;
2. Special warranty deed;
3. Title policy; or
4. Some other documentation that is acceptable to the Town Secretary.

If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, and if the Town has concerns regarding the welfare of future owners of all or any portion of the subject property, then the Town shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application (along with applicable paperwork and filing fees) on the property at any time following such denial (i.e., no waiting period).

~~h.~~f. Interlocal Agreements. Where a proposed subdivision is located partially within the jurisdiction of the Town and partially within the jurisdiction of a neighboring municipality, the Town Council may enter into an interlocal agreement with any other such municipality in which the proposed subdivision is partially located to waive the Town's plat approval requirements save and except that the Town maintains the right to review the subdivision for compliance with the Town's Comprehensive Plan and compliance with the Town's design standards.

(Ordinance 336-03 adopted 11/18/03; Ordinance 665-19, sec. 3, adopted 8/20/19)

~~**§ 2.3. Procedures and Submission Requirements for Sketch Plat Approval.**~~
~~Applicability.A Sketch Plat is shall be submitted prior to acceptance of an application for any application of a Land Study, Preliminary Plat, Final Plat, Replat, Amending Plat, Minor Plat, or any other plat specified herein.~~
~~Purpose.The sketch plat is a plat used for discussion purposes between the subdivider/developer and the Town, and is intended to discover and discuss any development issues prior to the submission of other plat or development applications.~~
~~Procedure.Prior to submitting the sketch plat, the applicant shall discuss with the Town Secretary the procedure set for the adoption of a subdivision plat and the requirements of the design specifications for the proposed subdivision and of any pertinent City ordinances. Town staff shall also advise the applicant of existing conditions that may affect the proposed subdivision, such as existing or proposed streets, adjacent subdivisions or properties, floodplain and drainage, fire protection, reservation of land, and similar matters, referring the applicant to the proper agencies for services that are not provided by the Town.~~
~~A sketch plat may be drawn in pen or pencil to a convenient scale on a sheet not larger than 24" x 36" in size, and it shall show the following:~~
~~Proposed name of the subdivision:~~
~~Name of the subdivision if property is within an existing subdivision.~~
~~Proposed name if not within a previously platted subdivision. No name shall be duplicated, either in part or in whole or be similar in spelling or pronunciation to the name of any other subdivision within the Town or within the Town's extraterritorial jurisdiction, which may result in confusion to operators of emergency vehicles.~~
~~Name of property if no subdivision name has been chosen.~~
~~Ownership:~~

~~Name and address, including telephone number, of legal owner or agent of property.~~
~~Name and address, including telephone number, of the surveyor or individual responsible for plat preparation.~~
~~The signature of the owner of the property subject to the sketch plat, or a notarized statement from the owner authorizing the applicant to submit a sketch plat on the property.~~
~~Name and address, including telephone number, of the applicant if different from the owner. If the applicant is not the owner of the property, then written approval from the owner shall be provided by the applicant authorizing the submittal of the application.~~
~~Features:~~
~~Location of any existing wooded areas within or immediately adjacent to the tract.~~
~~Indication of the type, size and recording information for all existing easements located on and within two hundred feet (200') of the tract.~~
~~Location of any property lines or watercourses located on or within two hundred feet (200') of the tract.~~
~~The full right-of-way with dimensions for the full right-of-way width for all rights-of-way located on or within two hundred feet (200') of the tract.~~
~~Location and size of all existing sewers, water mains, culverts, and other underground structures located on the tract and within two hundred feet (200') of the tract.~~
~~Existing permanent buildings on or immediately adjacent to the site and utility rights-of-way.~~
~~Approximate topography suitable to understand general drainage patterns. This may be obtained from previous topographic maps.~~
~~The approximate location and proposed widths of all proposed street rights-of-way.~~
~~Preliminary concept for connection with existing water system and a preliminary concept for collecting and discharging surface water drainage.~~
~~Preliminary concept for collection and treatment of wastewater – i.e. connection to a centralized wastewater collection and treatment system, installation of aerobic systems, installation of septic systems, construction of package plants, etc.~~
~~The approximate location, dimensions, and area of all parcels of land to be set aside for public or private open spaces, or for common use of property owners within the subdivision.~~
~~The approximate location of existing floodplains with reference to the appropriate panel number for the FIRM referenced.~~
~~The location of temporary stakes to enable the Town Staff to find and appraise features of the sketch plat in the field if other landmarks are not present.~~
~~Whenever the sketch plat covers only part of an applicant's contiguous holdings, the applicant shall submit a sketch of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.~~
~~A vicinity map showing streets and other general development of the surrounding area.~~
~~All zoning district boundaries within or adjacent to the tract.~~
~~The phasing of the development or the anticipated order of platting.~~
~~Procedures:~~
~~Five copies of the sketch plat shall be required for any subdivision or replatting of a subdivision. It may be drawn at a standard scale and size suitable for discussion purposes, and shall show the location of the subdivision, number of lots, typical lot depth and width, proposed utilities and streets, and any other information that may be deemed necessary by the Town.~~
~~No sketch plat shall be accepted for processing if it is determined to be administratively incomplete by the Town Secretary or Town Planner. The application and fees~~
~~**Editor's note**—As set out in Ord. 336-03, the last sentence of subsection 2. was incomplete.~~
~~Upon receiving the sketch plat, the Development Review Committee shall classify the subdivision as Major, Minor, Minor With Infrastructure, Replat, Amending Plat or Development Plat and shall review and discuss the plat along with its accompanying reports and other relevant material with the~~

~~applicant, and shall advise the applicant in writing of the specific changes, if any, required by Town ordinance or regulation as a prerequisite for approval, and any additional changes required.~~

~~Any applicant who disagrees with the classification of the plat or any requirements imposed on the sketch plat may appeal first to the Planning and Zoning Commission and then to the Town Council for review. Said appeal shall be filed within ten (10) calendar days of the classification by the Development Review Committee and the Town Council shall have final authority on any requirements imposed.~~

~~Effect of Review.The sketch plat shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities/services that will be needed to serve the proposed development. Any proposed use or development depicted on the sketch plat shall not be deemed formal authorization or approval by the Town until a preliminary plat or development plat is approved for the development (i.e., sketch plat approval is to be thought of as a general acknowledgment by the Town that the proposed layout generally conforms to the Town's subdivision regulations, and that the proposed development can be adequately served by required public facilities/services). If the applicant chooses to plat only the initial phase or phases of a multi-phase project designated in the sketch plat, a new sketch plat may be required for plat approval of subsequent phases, if the proposed development layout/ character and/or other conditions affecting the development substantially change from one phase to the next.~~

~~The approved sketch plat shall be valid for a period of one (1) year from the date of sketch plat approval by Town.~~

~~(Ordinance 336-03 adopted 11/18/03)~~

~~§ 2.4. Procedures and Submission Requirements for Land Study Approval.~~

~~Applicability.A land study (or a concept plan/preliminary site plan, per the Zoning Ordinance) shall be submitted to the Planning and Zoning Commission and the Town Council for review, evaluation and approval in the following circumstances:~~

~~In conjunction with an application for preliminary plat approval for any tract of land over fifty (50) acres in size, or for a smaller tract, where the land is part of a larger parcel over fifty (50) acres in size, which is ultimately to be developed under the Town's Development Ordinance;~~

~~In conjunction with a development plat; or~~

~~In any case where a road is to be established or realigned.~~

~~Purpose.The purpose of the land study is to allow the Planning and Zoning Commission and Town Council to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the Comprehensive Plan, Zoning Ordinance, Future Land Use Plan, Thoroughfare Plan and other applicable plans, and the property's relationship to adjoining subdivisions or properties (also see Section 3.1[e]), and to assist in evaluating the impacts of developing the land to be platted on provision of supporting public facilities and services, the environment, provision of open space and recreational opportunities and the general health, safety and welfare of the community.~~

~~Extent of Area Required for Land Study.When the preliminary plat or development plat designates the land to be developed in phases, the land study area (or for nonresidential property, the area covered by a concept plan/preliminary site plan, per the Zoning Ordinance) shall include the entire property from which the phases are being subdivided and an approximate development schedule. Where the applicant can demonstrate that natural or man-made features, such as thoroughfares and/or creeks, make inclusion in the land study of the entire property unnecessary to adequately review the items listed in the preceding paragraph, he may request approval from the Town Planner for a smaller land study area. Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.~~

~~Submission of an application for land study approval shall be preceded by a pre-application conference with the Town (see Section 2.1). The land study shall be prepared by a qualified civil~~

~~engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals two hundred feet (1" = 200') and on sheets no larger than 24" x 36" in size, and it shall show the following:~~

~~A title block within the lower right hand corner of the land study with the proposed name of the addition, the name and address of the owner/developer and the land planner, engineer[,] architect or surveyor responsible for the design or survey, the scale of the drawing, the date the drawing was prepared, and the location of the tract according to the abstract and survey records of Denton County, Texas;~~

~~A vicinity or location map that shows the location of the proposed development within the Town (or its ETJ) and in relationship to existing roadways;~~

~~The limits of the tract and scale distances with north clearly indicated;~~

~~The names of adjacent additions or subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The land study shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any nonresidential uses anticipated, and a generalized circulation plan for the subject property;~~

~~The existing zoning and existing/proposed uses on adjacent land (including existing/ proposed driveways and median openings, if on a future divided thoroughfare); the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information); existing buildings; railroad rights-of-way; topography with existing drainage channels or creeks; any other important natural features; all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries;~~

~~The layout and width of proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets;~~

~~A general arrangement of land uses, including but not limited to park and school sites, public facilities, private open space, floodplains/drainageways, and proposed nonresidential and residential densities and building heights; and~~

~~The phasing of development or the anticipated order of platting.~~

~~A tree survey showing all existing trees with a minimum trunk diameter of six (6) inches as measured four (4) feet above the ground. Said tree survey shall include a table showing the species, trunk size and health for each tree. The tree survey shall also show the trees proposed for removal and shall provide sufficient detail to determine how the requirements of the Town's Tree Preservation Ordinance (Ordinance No. 290-02), as amended [article 3.05 of the Code of Ordinances], will be met.~~

~~Certificate of No Tax Delinquency.At the time the developer files a land study application with the Town of Bartonville, he shall also file a certificate showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property in accordance with Section 1.13.~~

~~Procedures and Conditions.The required number of copies of the proposed land study shall be submitted per the Town's submission guidelines, as may be amended from time to time, accompanied by an application form, the appropriate filing fee, and any other required submission materials determined necessary by the Town Secretary.~~

~~The Planning and Zoning Commission and the Town Council shall review and evaluate the land study to determine whether the proposed development conforms to the Comprehensive Plan and applicable development regulations of the Town. The Town Council or the Planning and Zoning Commission may require additional information to be submitted to supplement the initial study. Based upon the land study, the Planning and Zoning Commission may recommend, and the Town Council may require as a condition of preliminary plat or development plat approval, that the land to be platted be developed in phases, that the proposed phases be developed in a different sequence or include more or less land, or that all phases designated be accompanied by a schedule of public~~

~~improvements to adequately serve the development under the development standards of the Town's Development Ordinance.~~

~~A land study may be submitted for review concurrently with a preliminary plat, provided that the respective requirements for both types of applications are satisfied (per Sections 2.4 and 2.5). If the preliminary plat cannot be reviewed by the Town Engineer and Town Planner in time for it to be scheduled on the same Planning and Zoning Commission agenda as the land study (i.e., due to lack of familiarity with the proposed subdivision, since the land study did not precede the preliminary plat), then the preliminary plat shall be denied (on the basis of inadequate review time) unless the applicant has executed a waiver of the 30-day review period (in writing) for the preliminary plat.~~

~~Effect of Review.The land study shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities/services that will be needed to serve the proposed development. Any proposed use or development depicted on the land study shall not be deemed formal authorization or approval by the Town until a preliminary plat or development plat is approved for the development (i.e., land study approval is to be thought of as a general acknowledgment by the Town that the proposed layout generally conforms to the Town's subdivision regulations, and that the proposed development can be adequately served by required public facilities/services). If the applicant chooses to plat only the initial phase or phases of a multi-phase project designated in the land study, a new land study may be required for plat approval of subsequent phases, if the proposed development layout/ character and/or other conditions affecting the development substantially change from one phase to the next.~~

~~The approved land study shall be valid for a period of one (1) year from the date of land study approval by Town Council. Prior to the lapse of approval for a land study, the property owner may petition the Town to extend the land study approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and then Town Council, and an extension may be granted by Town Council at such meeting. If no petition for extension of land study approval is submitted by the property owner/developer prior to the expiration date, the land study shall be deemed to have expired and shall become null and void.~~

~~In determining whether to grant a request for extension, the Town Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations shall apply to the land study. The Commission may recommend, and the Town Council may approve, extension of the land study or deny the request, in which instance the original land study shall be deemed to be null and void. The property owner must thereafter submit a new land study application for approval, and shall conform to the subdivision regulations then in effect.~~

~~The Commission may recommend, and the Town Council may grant, extension of the land study subject to additional conditions based upon newly enacted Town regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval. The Commission may recommend, and the Town Council may decide, to specify a shorter time for extension of the land study than the original one-year approval period.~~

~~(Ordinance 336-03 adopted 11/18/03)~~

§ 2.~~5~~3. Procedures and Submission Requirements for Preliminary Plat Approval.

a. Upon reaching conclusions at the pre-application conference (as described in Section 2.1 above) regarding a general development program and objectives~~ and upon approval of the land study (if required)~~, the subdivider shall have prepared a preliminary plat together with general (i.e., preliminary) utility plans and other supplementary materials, as specified by the Town. The preliminary plat shall be submitted to the Town of Bartonville with the appropriate filing fee and with a written application form per the Town's submission guidelines, as may be amended from time to time, subject to the Town's published submittal schedule.~~, (but no more than thirty calendar days, unless the applicant waives the 30-day~~

~~review time in writing) prior to the Planning and Zoning Commission meeting at which it is to be considered.~~

At the time the developer files a preliminary plat application with the Town of Bartonville, the developer shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

The preliminary plat shall be in accordance with the Town's Zoning Ordinance (including the proper zoning for the intended use) if located within the Town's corporate limits, and it shall be in accordance with the Town's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The preliminary plat shall be prepared by a registered/certified civil engineer~~, land planner~~ or surveyor.

~~The preliminary plat may constitute only that portion of the approved land study which the subdivider proposes to construct and record provided, however, that such portion conforms to all the requirements of these regulations.~~

b. The preliminary plat may be submitted electronically or in hard copy form. Hard ~~C~~copies/prints of the preliminary plat for the proposed subdivision~~,~~ shall be drawn on sheets eighteen inches by twenty-four inches (18" x 24") and drawn to a known engineering scale of not smaller than one hundred feet to the inch (1" = 100') or a larger scale, ~~shall be submitted in the quantity as specified by the Town (~~as provided in the Town's plat submission guidelines, as may be amended from time to time~~)~~. In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, preliminary plats may be on multiple sheets or to another known engineering scale, as approved by the Town Engineer, and as acceptable for eventual filing at Denton County.

Preliminary plat applications which do not include the required data, a completed application form, the appropriate filing fee, the appropriate number of copies of the plat (if hard copies are submitted), and/or other required information will be considered incomplete, shall not be accepted for submission by the Town, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to Town staff. Additional copies of the preliminary plat may be required if revisions or corrections are necessary. A preliminary plat~~, if not preceded by a land study showing phasing of the development,~~ shall include all contiguous property under the ownership or control of the applicant. It may contain more than one phase which, if so, shall be clearly identified.

An application for a preliminary plat shall be considered administratively complete once the application is filed and Town staff and the Town Engineer have determined that the application meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council. The Filing Date of a preliminary plat means the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by this Ordinance.

~~c. The subdivider may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the Town may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats (including full construction plans and the appropriate assurances for the completion of all improvements, as per Section VI), and provided that adequate review can be achieved by the Town. If the Town, due to staff resources and/or other factors, cannot complete its review of both plats (and other associated~~

~~materials) prior to the applicable Planning and Zoning Commission meeting, then only the preliminary plat shall be considered for approval and the final plat shall be denied unless the thirty (30) day review requirement is waived in writing by the applicant.~~

~~d.~~c. Following review of the preliminary plat and other materials submitted in conformity to these regulations, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the Planning and Zoning Commission shall act upon the preliminary plat as it was submitted, or as modified. If the Planning and Zoning Commission recommends approval, the Planning and Zoning Commission shall state the conditions of such approval, if any, and the preliminary plat shall be placed on the next possible Town Council agenda for consideration. The Town Council shall take action on the preliminary plat within thirty (30) days of the Planning and Zoning Commission's action, unless extended by mutual agreement by the applicant and the Town (see Section 2.3.e). ~~After the preliminary plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow him more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the Town's regulations. After receipt of the request, the Town may delay action on the preliminary plat beyond thirty (30) days of the submission date.~~

~~e.~~d. Approval of a preliminary plat by Town Council, upon favorable recommendation by the Planning and Zoning Commission, shall be deemed approval of the street and lot layout shown on the preliminary plat, and to the preparation of the final ~~or record~~ plat (and associated engineering/construction plans for public improvements). Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval and as provided in this Section have been met.

~~f.~~ e. Action by Planning and Zoning Commission or Town Council.~~An application for a preliminary plat shall be considered administratively complete upon the occurrence of all of the following:~~

~~(1) the Town staff and the Town Engineer have determined that the application for a preliminary plat meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council; (2) the preliminary plat has been placed on a duly posted agenda for the Planning and Zoning Commission or Town Council; and (3) the Planning and Zoning Commission or Town Council has taken action on the preliminary plat. The Filing Date of a preliminary plat means the date a preliminary plat is considered by the Town to be administratively complete and is heard by either the Planning and Zoning Commission or Town Council.~~

The Planning and Zoning Commission or Town Council may take one of the following actions: (a) approve the preliminary plat; (b) approve the preliminary plat with conditions; or (c) disapprove the preliminary plat.

In the event the Planning and Zoning Commission or Town Council conditionally approves or disapproves a preliminary plat, the Planning and Zoning Commission or Town Council shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval of a preliminary plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Planning and Zoning Commission or Town Council receives such a response from the

applicant, the Planning and Zoning Commission or Town Council (or their designee) shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the fifteenth (15th) day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended.

The statutory 30-day time frame for preliminary plat approvals, established by Chapter 212 of the Texas Local Government Code, shall commence on the filing date.

Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by the applicant, the Planning and Zoning Commission or Town Council may approve one ~~(1)~~or more ~~Extension~~extension(s) of ~~Right~~ right to 30-~~Day~~ day ~~Action~~action, ~~such~~ with each ~~Extension~~extension(s) not to exceed 30 additional days.

f. Standards for Approval. No preliminary plat shall be recommended for approval by the Planning and Zoning Commission, or approved by the Town Council, unless the following standards have been met:

1. The plat substantially conforms with ~~the approved land study or other~~applicable studies and plans~~, as applicable~~;

2. The preliminary layouts of required public improvements and Town utilities have been approved by the Town Engineer;~~ and~~

3. The plat conforms to applicable zoning and other regulations; and~~.~~

4. The plat has been approved by the Permitting Authority, as defined in Chapter 285 of the Texas Administrative Code, in accordance with Title 30, Texas Administrative Code, Chapter 285, Section 285.4(c) relating to the review of subdivision plans prior to the application for a permit for an on-site sewage facility.

g. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by Town Council, upon a favorable recommendation by the Planning and Zoning Commission. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements (including easements) they may have. This requirement may be deferred until the final plat is submitted if such deferral request is submitted to the Town in writing and approved by the Town Engineer prior to the Planning and Zoning Commission meeting at which the preliminary plat will be considered. No excavation, grading or site clearing activities shall occur prior to approval of the final plat and the construction (i.e., engineering) plans. However, limited/preliminary grading or site preparation activities (e.g., excavation, filling, tree removal/clearing, etc.) may be authorized by the Town Engineer, at his discretion, if such request is submitted in writing by the property owner/developer and if such activities will not be detrimental to the public health, safety or general welfare.

h. The required copies/prints (as determined by the Town) of the proposed preliminary plat and associated construction (i.e., engineering) plans shall show the following~~ (the preliminary plat itself shall only include those items marked by italics - general physical/engineering data shall be shown on the preliminary grading and utility plans submitted along with the preliminary plat; other detailed engineering data shall be included in the construction plans when they are submitted with the final plat)~~:

1. A vicinity/location map that shows the location of the proposed preliminary plat within the Town (or within its ETJ) and in relationship to existing roadways;

~~2.~~ Boundary lines, abstract/survey lines, corporate or other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see Section 5.2 for specifications); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and/or line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract/survey corner or existing subdivision corner shall be shown;

3. The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, building setbacks, lot/block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;

4. The location, widths and names of all streets and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter/memo along with the application form) for all new street names (street name approval is required at the time the preliminary plat is approved);

5. The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains, gas mains or other underground structures (including the type and size of existing, sewer, water, gas mains or other underground structures), or other existing features within the area proposed for subdivision;

6. Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as the concept plan or preliminary site plan, per the Zoning Ordinance);

7. A title block within the lower right-hand corner of the plat (and preliminary grading and utility plans) which shows the title/name under which the proposed subdivision is to be recorded, the name and address of the owner/developer and the name of the ~~land planner,~~ engineer or registered public surveyor who prepared the plat/plans, the scale of the plat, the date the plat was prepared, and the location of the property according to the abstract/survey records of Denton County, Texas; the subdivision name shall not duplicate (or phonetically replicate) the name of any other platted subdivision in Bartonville or its ETJ, but phasing identification is allowed (it is the owner's/developer's responsibility to check the plat records of Denton County to ensure that the proposed subdivision name will not duplicate or sound too much like a subdivision name already in existence - the Town may, at its discretion, require a

different subdivision name if there is potential for confusion by public safety officials or the general public);

8. Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses;

9. Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;

10. Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to sea level datum;

11. Areas contributing drainage to the proposed subdivision shall be shown in ~~the~~ a preliminary drainage plan; locations proposed for drainage discharge from the site shall be shown by directional arrows;

12. All physical features of the property to be subdivided shall be shown in the preliminary utility/drainage plans, including the location and size of all watercourses, 100-year floodplain according to Federal Emergency Management Agency (FEMA) information, Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions, the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision;

~~13. (Reserved)~~

~~14.~~13. Proposed phasing of the development; where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the Town Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;

~~15.~~14. All preliminary plats shall be submitted in a legible format that complies with Denton County requirements for the filing of plats~~, and shall be drawn on a good grade blue line or black line paper~~;

~~16.~~15. Proposed or existing zoning of the subject property and all adjacent properties;

~~17.~~16. Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a floodplain or within an area that may be susceptible to flooding (i.e., areas that fall within three feet of base flood elevation);

~~18.~~17. Certificates and other language shall be included on the plat, pursuant to the following sections:

a. A statement that the subdivided area is legally owned by the applicant.

b. An accurate legal (i.e., metes and bounds) description by bearings and distances (including necessary curve and line data), accurate to the nearest one-hundredth

of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument.

c. A statement signed by the owner and acknowledged before a Notary Public as to the authenticity of the signatures, saying that the owner adopts the plat as shown, described and named, and that they do dedicate, in fee simple, to the public use forever the street and easements shown on the plat. The owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth or other appurtenance for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.

d. The registered public surveyor's certificate, with a place for his signature and notarization of his signature.

e. A place for plat approval signature of the Mayor or Mayor Pro Tem of the Town Council, a place for the Town Secretary to attest such signature, and the approval dates by the Planning and Zoning Commission and Town Council.

f. Following are the certificates/languages to be used on the plat to accommodate the above requirements:

1. Owner's Certificate (required):

STATE OF TEXAS §
COUNTY OF _____§

WHEREAS, (Name(s)) is (are) the Owner(s) of a tract of land situated in the (_____) Survey, Abstract No. (_____), Denton County, Texas and being out of a (_____) acre tract conveyed to him (them) by (_____), and a (_____) acre tract conveyed to him (them) by (_____), and being more particularly described as follows:

(Enter accurate metes and bounds property description here)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That _____, acting herein by and through his (its) duly authorized officers, does hereby adopt this plat designating the hereinabove described property as _____, an addition to the Town of Bartonville, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets and easements shown thereon. The streets are dedicated for street purposes. The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the Town of Bartonville. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same

unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and Town of Bartonville's use thereof. The Town of Bartonville and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The Town of Bartonville and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Bartonville, Texas.

WITNESS, my hand, this the _____ day of _____, 20____.

BY:

_____
Authorized Signature of Owner

_____
Printed Name and Title

STATE OF TEXAS §
COUNTY OF _____§

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this _____ day of _____, 20___.

_____
Notary Public in and for the State of Texas

_____
My Commission Expires On:

2. Surveyor's Certificate (required):

KNOW ALL MEN BY THESE PRESENTS:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as set were properly placed under my personal supervision in accordance with the Development Ordinance of the Town of Bartonville.

(seal)

Signature of Registered Public Land Surveyor Registration No. _____

STATE OF TEXAS §

COUNTY OF _____§

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, Land Surveyor, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this ___ day of _____, 20____.

_____

Notary Public in and for the State of Texas

_____

My Commission Expires On:

3. Approval Block (required):

PRELIMINARY PLAT

Approved for preparation of final plat for the subdivision shown on this plat.

APPROVED BY:
Planning and Zoning Commission, Town of Bartonville, Texas

_____

Signature of Chairman Date

APPROVED BY: Town Council,

Town of Bartonville, Texas

_____

Signature of Mayor Date

ATTEST:

_____

Town Secretary Date

4. Special Notice (required):

NOTICE: Selling a portion of this addition by metes and bounds is a violation of Town ordinance and State law, and is subject to fines and/or withholding of utilities and building permits.

5. Visibility, Access and Maintenance Easements (to be used if applicable):

The area or areas shown on the plat as "VAM" (Visibility, Access and Maintenance) Easement(s) are hereby given and granted to the Town, its successors and assigns, as an easement to provide visibility, right of access

for maintenance upon and across said VAM Easement. The Town shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the Town exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The Town may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the owners. No building, fence, shrub, tree or other improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the VAM Easement. The Town shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic-control devices or signs on the VAM Easement and to remove any obstruction thereon. The Town, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

6. Fire Lanes (to be used if applicable):

That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface in accordance with the Town of Bartonville's paving standards for fire lanes, and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the accessibility of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking." The local law enforcement agency(s) is hereby authorized to enforce parking regulations within the fire lanes, and to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

7. Access Easements (to be used if applicable):

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the Town of Bartonville, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

8. Other Plat Language. The plat shall include any other applicable language (e.g., for drainage/floodway or other special types of easements, etc.) deemed appropriate and necessary by the Town for the purpose of protecting the public health, safety and welfare. Applicable plat languages are available upon request at the Town.

~~i. [Reserved]~~

~~j.~~i. Effect of Approval. Approval of a preliminary plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval (see Section 2.~~6~~4).

~~k.~~j. Extension and Reinstatement Procedure.

1. Approval of a preliminary plat shall be valid for a period of one (1) year from the date of Town Council approval unless reviewed by the Planning and Zoning Commission and extended by Town Council (see next subsection) in the light of new or significant information which would necessitate the revision of the preliminary plat. Within one (1) year from the approval date of a preliminary plat, a final plat (and associated engineering/ construction plans) must be approved by the Town for construction of the development or the preliminary plat shall expire and become null and void.

2. Prior to the lapse of approval for a preliminary plat, the property owner may petition the Town to extend the preliminary plat approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission ~~(the Commission)~~ and then Town Council, and an extension may be granted by Town Council at such meeting. If no petition for extension of preliminary plat approval is submitted by the property owner/developer (and no final plat has been approved by the Town) prior to the expiration date, the preliminary plat shall be deemed to have expired and shall become null and void.

   In determining whether to grant a request for extension, the Town Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the preliminary plat. The Planning and Zoning Commission may recommend, and Town Council may grant, extension of the preliminary plat or denial of the request, in which instance the original preliminary plat shall be deemed to be null and void. The property owner must thereafter submit a new preliminary plat application for approval, and shall conform to the subdivision regulations then in effect.

   The Planning and Zoning Commission may recommend, and Town Council may grant, extension of the preliminary plat subject to additional conditions based upon newly enacted Town regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Planning and Zoning Commission may recommend, and Town Council may specify, a shorter time for extension of the preliminary plat than the original one-year approval period.

(Ordinance 336-03 adopted 11/18/03; Ordinance 414-06, sec. 1, adopted 1/16/07; Ordinance 665-19, sec. 4, adopted 8/20/19)

§ 2.~~6~~4. Procedures and Submission Requirements for Final Plat Approval.

a. The final plat shall be in accordance with the preliminary plat, as approved, and shall reflect/ incorporate all applicable conditions, changes, directions and additions imposed by the Planning and Zoning Commission and Town Council upon the preliminary plat. The final plat shall not be approved by the Town until detailed engineering and construction plans for

all required public improvements have been prepared by the applicant and submitted to the Town for review~~ed~~/ approval by the Town Engineer. The final plat shall not be submitted prior to approval of the preliminary plat~~ (see Section 2.5 c. for exception)~~. At the time the developer files a final plat application with the Town of Bartonville, he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

b. The final plat shall be in accordance with the Town's Zoning Ordinance (including the proper zoning for the intended use) if located within the Town's corporate limits, and it shall be in accordance with the Town's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The final plat shall be prepared by a registered/certified civil engineer~~, land planner~~ or surveyor, and shall include all land area that is proposed for immediate development.

c. Procedures for Final Plat Approval:

1. Submission and Review of Final Plat Application. The ~~required number of copies of the~~application for the proposed final plat (and associated engineering/construction plans) shall be submitted ~~at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant waives the 30-day review time in writing) before the Planning and Zoning Commission meeting at which it shall be considered~~in accordance with the town's published submittal schedule, accompanied by an application form and a filing fee, ~~(~~per the Town's plat submission guidelines, as may be amended from time to time~~)~~. The Town Secretary (or designee) shall check the plat to ascertain its compliance with these regulations and shall report any points of noncompliance to the applicant. If revisions are necessary, the applicant/developer or his engineer shall submit ~~additional corrected copies~~a corrected of the properly completed final plat to the Town Secretary for final action no later than ~~seven~~ ten (~~7~~10) calendar days prior to the Planning and Zoning Commission meeting. Failure to submit corrected copies back to the Town in time shall be reason to determine the submittal as incomplete and as reason to not schedule the final plat on the Planning and Zoning Commission's agenda or to deny the final plat application. If, upon resubmission of the final plat application to the Town, the Town Secretary (or designee) determines that the application is still incomplete (i.e., not ripe for consideration), the application will be subject to denial.

~~2. Final Plats in Which an Improvement Agreement is not Required, a Variance is not Sought or the Improvement of Public Improvements is not Deferred.These approval procedures shall apply to those final plats in which an improvement agreement is not required, a variance from the Town's Development Ordinance is not sought, or the construction of public improvements is not deferred. The Planning and Zoning Commission shall approve or deny the final plat within thirty (30) days of the official submission date. If the Planning and Zoning Commission denies a final plat application, the Commission shall state such disapproval and the reasons therefor.~~

~~3.~~2. Final Plat~~s~~ ~~in Which an Improvement Agreement is Required, a Variance is Sought or the Improvement of Public Improvements is Deferred~~Approval Procedure.~~These approval procedures shall apply to those final plats in which an improvement agreement is required, a variance from the Town's Development Ordinance is sought, or the construction of public improvements is deferred.~~ The Planning and Zoning Commission shall recommend approval, approval subject to certain conditions, or

denial of the final plat within thirty (30) days of the official ~~submission~~ filing date. The Town Council shall take action on the final plat within thirty (30) days of the Planning and Zoning Commission's action. If the Town Council denies a final plat application, the Council shall state such disapproval and the reasons therefor.

3. ~~An~~ An application for a final plat shall be considered administratively complete once the application is filed and Town staff and the Town Engineer have determined that the application meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council. The Filing Date of a final plat means the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by this Ordinance.

~~4. application for a final plat shall be considered administratively complete upon the occurrence of all of the following: (1) the Town staff and the Town Engineer have determined that the application for a final plat meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council; (2) the final plat has been placed on a duly posted agenda for the Planning and Zoning Commission or Town Council; and (3) the Planning and Zoning Commission or Town Council has taken action on the final plat. The Filing Date of a final plat means the date a final plat is considered by the Town to be administratively complete and is heard by either the Planning and Zoning Commission or Town Council.~~

The Planning and Zoning Commission or Town Council may take one of the following actions: (a) approve the final plat; (b) approve the final plat with conditions; or (c) disapprove the final plat.

In the event the Planning and Zoning Commission or Town Council conditionally approves or disapproves a final plat, the Planning and Zoning Commission or Town Council shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval of a final plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Planning and Zoning Commission or Town Council receives such a response from the applicant, the Planning and Zoning Commission or Town Council (or their designee) shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the fifteenth (15th) day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended.

The statutory 30-day time frame for final plat approvals, established by Chapter 212 of the Texas Local Government Code, shall commence on the ~~Filing~~ filing ~~Date~~date.

Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by the applicant, the Planning and Zoning Commission or Town Council may approve one ~~(1)~~or more ~~Extension~~extension(s) of ~~Right~~ right to 30-~~Day~~ day ~~Action~~action, ~~such~~ with each ~~Extension~~ extension not to exceed 30 additional days.

~~5.~~4. Return and Filing of Final Plat. Upon final plat approval and following construction of all required public improvements or provision of appropriate surety, if applicable, the developer/applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto to the Town Secretary (or designee), in accordance with requirements established by the Town. All easements shall be included on the plat (including recording information for those easements that are filed as separate instruments) as required by utility companies and/or the Town of Bartonville prior to filing, and a copy of letters from each applicable utility company shall be submitted to the Town Secretary (or designee) stating that the plat contains the property easements. All the necessary filing materials, including mylars, reductions and/or blueline copies, as required by the County Clerk of Denton County, in addition to mylar copies and a computer disk or other portable storage implement containing the digital plat file(s) required by the Town, shall be returned to the Town Secretary (or designee) with the required fees. The Town Secretary shall file the final plat within thirty (30) calendar days of the date of final plat approval at the office of the County Clerk of Denton County provided that all requirements have been satisfied.

~~6. Waiver of Thirty (30) Day Approval Requirement.After the final plat has been scheduled on an agenda pursuant to the approval processes specified in Subsections 2.6c.2. and 2.6c.3. above, the applicant or subdivider may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow him more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the Town's regulations. After receipt of the request, the Town may delay action on the final plat beyond thirty (30) days of the submission date.~~

~~d. The final plat (and any replat or other recordable plat) shall be prepared by a registered public surveyor or licensed land surveyor.~~

~~e.~~d. Standards for Approval. No final plat shall be recommended for approval by the Planning and Zoning Commission or approved by Town Council unless the following standards have been met:

1. The plat substantially conforms with the approved preliminary plat, including conditions of approval, and other studies and plans, as applicable;

2. The complete engineering/construction plans for all required public improvements and Town utilities have been submitted to the Town for review/approval by the Town's Engineer (whether specifically stated or not, final plat approval shall always be subject to any additions and/or alterations to the engineering/construction plans as deemed necessary by the Town Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); ~~and~~

3. The plat conforms to applicable zoning and other regulations; and~~.~~

4. The plat has been approved by the Permitting Authority, as defined in Chapter 285 of the Texas Administrative Code, in accordance with Title 30, Texas Administrative Code, Chapter 285, Section 285.4(c) relating to the review of subdivision plans prior to the application for a permit for an on-site sewage facility.

~~f.~~e. When all of the improvements are found to be constructed/installed (i.e., completed) in accordance with the approved plans and specifications and with the Town's standards, and upon receipt by the Town of Bartonville of a maintenance bond or certificate of deposit in accordance with Section VI of this Ordinance from each contractor, three (3) sets of "AS BUILT" (or "Record Drawing") plans and one (1) electronic set of "As-Built" or "Record

Drawing" ~~sepias~~ shall be submitted with a letter stating the contractor's compliance with these regulations. After such letter is received, the Town Engineer shall receive and accept for the Town of Bartonville the title, use and maintenance of the improvements according to ~~Section VI.7 [~~6.7~~]~~. The final plat shall not be filed for record prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the Town.

~~g.~~f. Timing of Public Improvements.

1. The Planning and Zoning Commission and Town Council may require all or some of the public improvements to be installed, offered for dedication, and/or accepted by the Town prior to approval of the final plat by the Town if there exists a compelling reason that is consistent with the public health, safety and/or welfare to do so (also see Section VI).

   The Town Council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the Town at the time of final plat approval, and the necessary assurances for completion of the improvements (in accordance with Section VI) shall be a stipulation (i.e., condition) of approval of the final plat.

2. If the Town Council does not require that all public improvements be installed, offered for dedication and/or accepted by the Town prior to signing the final plat (in preparation for recording), it shall require that the applicant provide assurances/security for the completion of the improvements or escrowed funds, as provided in Section VI.

(Ordinance 336-03 adopted 11/18/03; Ordinance 353-04 adopted 5/18/04; Ordinance 414-06, sec. 2, adopted 1/16/07; Ordinance 665-19, sec. 5, adopted 8/20/19)

§ 2.~~7~~5. Final Plats (Information and Format Requirements).

a. The preliminary plat may be submitted electronically or in hard copy form. Hard copies ~~Copies~~/prints of the final plat for the proposed subdivision~~,~~ shall be drawn on sheets eighteen inches by twenty-four inches (18" x 24") and drawn to a known engineering scale of not smaller than one hundred feet to the inch (1" = 100') or a larger scale, ~~, shall be submitted in the quantity as specified by the Town (~~as provided in the Town's plat submission guidelines, as may be amended from time to time~~)~~. In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, final plats may be on multiple sheets or to another known engineering scale, as approved by the Town Planner, and as acceptable for filing at Denton County.

   Complete engineering/construction plans of all public improvements to be constructed with the development (including streets, water and sewer lines, drainage structures, screening or retaining walls, required landscaping, etc.) shall be submitted along with the final plat application. Failure to submit complete construction plans shall cause the final plat application to be incomplete.

   Final plat applications which do not include the required data, completed application form, filing fee, number of copies of the plat (if submitted as hard copies), and/or other required information (including complete engineering/construction plans for public improvements) will be considered incomplete, shall not be accepted for submission by the Town, and shall

not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to Town staff. Additional copies of the final plat may be required if revisions or corrections are necessary.

b. All information that is required for inclusion on a preliminary plat (see Section 2.~~5~~3(i)) shall be shown on the final plat (however, physical features such as topographical contours, structures, etc. shall not be shown on the final plat). In addition to these items, the final plat shall also provide a place for the County Clerk of Denton County to stamp the date and location where the plat will be filed (i.e., "Plat #__, Plat Cabinet #__, etc.) in the lower left-hand corner of the plat drawing. All aspects of the final plat shall conform to the standards of Denton County for plats (e.g., clarity, sheet size, paper type, lettering size, reproducibility, etc.). It is the applicant's/ developer's responsibility to be familiar with the County's standards for filing plats and to comply with same.

c. Approval Block. The approval block used on the previously approved preliminary plat shall be modified and shown on the final plat, as follows:

FINAL PLAT

Approved by the Town of Bartonville for filing at the office of the County Clerk of Denton County, Texas.

APPROVED BY: Planning and Zoning Commission, Town of Bartonville, Texas

_____ _____
Signature of Chairman Date

APPROVED BY: _____Town Council,

Town of Bartonville, Texas

_____ _____
Signature of Mayor Date

ATTEST:

_____ _____
Town Secretary Date

d. Engineering/Construction Plans. Along with the final plat application, the developer shall cause to be prepared and shall submit the required copies of the complete engineering/construction plans for streets, storm sewers/drainage structures, water and sanitary sewer facilities, screening and/or retaining walls, landscaping/irrigation, and any other required public improvements for the area covered by the final plat. ~~Cost estimates shall also be submitted with the construction plans.~~ Prior to construction of any public improvements, a set of construction plans marked "Approved" (by the Town Engineer) must be on file at the Town. A full set of the Town-approved engineering/construction plans must also be available for inspection on the job site at all times.

The developer shall have these plans prepared by their own professional engineer(s), subject to approval of the plans by the Town of Bartonville. The Town Engineer shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them "Approved" and shall return one set to the developer. If not approved, one set shall be marked with the objections noted and returned to the applicant or developer for correction. Once the construction plans are approved by the Town, the owner/developer shall provide

additional sets of the approved plans to the Town, as specified by the Town Engineer, for use during construction.

After approval of the final plat, construction plans and specifications by the Town of Bartonville, the developer shall cause a contractor to install/construct the public improvements in accordance with the approved plans and the Town's standard specifications, and at the developer's expense (also see Section VI). The developer shall employ engineers, surveyors and/or other professionals as necessary to design, stake, supervise and perform the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations and with the Town's design standards.

Construction plans shall be prepared by or under the direct supervision of a professional engineer registered in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the Town's Engineering Design Standards (EDS). All construction plans submitted for Town review shall be dated and shall bear the responsible engineer's registration number, his designation of "professional engineer" or "P.E.", and the engineer's seal. Construction plans shall be approved by the Town Engineer when such plans meet all of the requirements of this Ordinance and the Town's EDS.

Engineering and construction plans shall be in conformance with the Town's EDS and with the requirements set forth herein. Engineering/construction plans showing paving and design details of streets, culverts, bridges, storm sewers, water mains, sanitary sewers, perimeter sidewalks, screening walls, landscape/irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40 or 50 feet (1" = 40' or 50') horizontally and one inch equals 4, 5, or 10 feet (1" = 4', 5' or 10') vertically shall be submitted to the Town of Bartonville along with a copy of the final plat of the subdivision. The number of copies as specified by the Town shall be submitted along with the final plat submittal.

As part of the engineering/construction plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

The engineering/construction plans shall be valid for a period of one (1) year after approval by the Town. The Town of Bartonville may grant a one (1) year extension, after which they are subject to re-review and approval ~~reapproval~~ by the Town prior to construction commenting, if no construction has yet occurred.

(Ordinance 336-03 adopted 11/18/03)

§ 2.~~8~~6. Development Plats.

a. Authority. This section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

b. Applicability. For purposes of this section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the Town or within its extraterritorial jurisdiction in the following circumstances:

1. The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein;

2. The development of any tract of land for which the property owner claims an exemption from the Town's Development Ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations;

3. The development of any tract of land for which the only access is a private easement/street;

4. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated.

c. Exceptions. No development plat shall be required, where the land to be developed has received final plat or replat approval prior to the effective date of this Ordinance, ~~[or]~~or the proposed development includes one (1) single-family detached residential unit on a single parcel of land that was existing in its current configuration prior to the effective date of this Ordinance. The Town Council may, from time to time, exempt other development or land divisions from the requirements of this section.

d. Prohibition on Development. No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section, until a development plat has been recommended for approval by the Planning and Zoning Commission and approved by Town Council and filed with the Town Secretary (or his/her designee). Notwithstanding the provisions of this Section, the Town shall not require building permits or otherwise enforce the Town's Building Code in the Town's extraterritorial jurisdiction in relation to any development plat required by this Development Ordinance.

e. Standards of Approval. The development plat shall not be approved until the following standards have been satisfied:

1. The proposed development conforms to all Town plans, including but not limited to, the Comprehensive Plan, Thoroughfare Plan, Land Use Plan, park/recreation/open space plan, utility plans and applicable capital improvements plans;

2. The proposed development conforms to the requirements of the Zoning Ordinance (if located within the Town's corporate limits);

3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with Town regulations;

4. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and

5. The proposed development conforms to the design and improvement standards contained in this Ordinance and in the Town's EDS.

f. Conditions. The Town may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) above.

~~g. Land Study Requirement.Whenever a property owner proposes to divide land into tracts or lots each of which is greater than five (5) acres, and for which no public improvements are proposed, he shall submit a land study together with his application for approval of a development plat in accordance with Section 2.4 of this Ordinance.~~

~~h.~~g. Approval Procedure. The application for a development plat shall be submitted to the Town in the same manner as a final plat (see Sections 2.~~6~~ 4 and 2.~~7~~5), and shall be approved, conditionally approved, or denied by the Town Council following review and recommendation by the Planning and Zoning Commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the County by the Town of Bartonville in the same manner as a final plat (see Section 2.~~7~~5).

~~i.~~h. Submittal Requirements -In addition to all information that is required to be shown on a final plat (see Section 2.~~7~~5), a development plat shall:

1. Be prepared by a registered professional land surveyor;

2. Clearly show the boundary of the development plat;

3. Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;

4. Show all easements and rights-of-way within or adjacent to the development plat; and

5. Be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the Town's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

~~j.~~i. Oil and Gas Well Development Plats. Prior to the issuance of an oil/gas drilling permit, any person who proposes drilling and/or the production of oil or gas on a tract of land located within the Town limits or within the Town's Extraterritorial Jurisdiction shall prepare and file an Oil~~/~~ and Gas Well Development Plat ~~Application~~ application with the Town.

1. Oil~~/~~ and Gas Well Development Plats shall be processed and approved in accordance with Tex. Loc. Gov't Code Ann. § 212.041 through § 212.050 (Vernon 2003), Section 2.~~8~~ 6 of this Ordinance, and no new oil or natural gas development may begin on property until the Oil~~/~~ and Gas Well Development Plat is filed and approved by the Planning and Zoning Commission in accordance with the provisions of this Subsection and a drilling permit has been approved and issued by the Town Council.

2. Erosion control is required and shall comply with all local, state and federal requirements. The operator shall file a copy of the Stormwater Pollution Plan if required by the EPA.

3. With the exception of vehicular access, no development shall be allowed in a floodplain.

4. General Requirements. An Oil~~/~~ and Gas Well Development ~~plat~~ Plat shall meet all of the informational and procedural requirements set forth for a final plat~~,~~. The application may be submitted electronically or in hard copy form. ~~and~~A hard copy application shall ~~be accompanied by~~include ten (10) copies of the application, including copies of all submitted documents and prints plat, the required filing fee (per the Town's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no

delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

5. Existing Features.

The Oil and Gas Well Development Plat shall be drawn at a scale of one hundred feet to the inch (1" = 100') or at a scale approved by the Town Engineer. The information to be included and the procedure for submittal are as follows:

a. Boundary lines of the entire lease area (may be referred to as production unit) covered by the Oil and Gas Well Development Plat, indicated by heavy lines, and the computed acreage of the subdivision shall be noted;

b. The widths and names of all existing or platted streets or other public rights-of-way or easements within one thousand (1,000) feet of the surface tract and within one thousand (1,000) feet of the wellhead site, shall be located together with any existing permanent buildings, railroads, and other important features, such as abstract lines, political subdivisions or corporation boundaries, and school district boundaries;

c. Existing sewer mains, water mains, drainage culverts, or other underground structures within two hundred (200) feet of the surface tract and within two hundred (200) feet of the wellhead site, with pipe sizes and grades;

d. Contours with intervals of two (2) feet or less, with references to mean sea level datum;

e. The names and lot patterns of subdivisions and/or the names of record owners of unsubdivided land within six hundred (600) feet of the perimeter of the Oil and Gas Well Development Plat;

f. Permanent structures and land uses within the area covered by the Oil and Gas Well Development Plat and within six hundred (600) feet of the perimeter of the wellhead site. Said permanent structures and uses shall include houses, barns, walls, wells, tanks, and other significant features;

g. The exact location, dimension, description, and flow line of existing drainage structures and the locations, flow line of existing watercourses, and the 100-year FEMA floodplain within the plat or within six hundred (600) feet of the wellhead site;

6. New Features.

The following features must also be shown on the Oil and Gas Well Development Plat.

a. North point, scale, date, and approximate acreage of the lease area;

b. The addresses, and phone numbers of the applicant(s), engineer, surveyor, or planner;

c. The tract designation and other description according to the real estate records of the Town, County, or Central Appraisal District for each tract of land contained within the Oil and Gas Well Development Plat;

d. The layout, names, and widths of all existing and proposed interior roads, gates, and fencing;

e. Identification of all truck routes and access points;

f. A drainage and erosion control plan that is prepared by a professional engineer licensed to operate in the State of Texas must be submitted with an application for an Oil and Gas Well Development Plat. The drainage and erosion control plan must be approved by the Town Engineer and must include the following information:

   i. Access crossings of floodplains, creeks, and/or streams shall be designed to a 25-year storm frequency. In addition, all development, including access roads and pad sites, must comply with the Town of Bartonville Flood Damage Prevention ordinance;

   ii. The erosion control plan must provide references to Texas Commission on Environmental Quality (TCEQ) and federal standards and must indicate how these requirements are to be satisfied;

   iii. Verification that all floodplain, creek, and stream crossings shall have no negative affects on other property. Gravel pad sites shall be evaluated assuming a runoff coefficient of not less than 0.70. Detention or other acceptable means must be provided to ensure there is no adverse impact on downstream properties.

g. Identify the proposed source of water and any other public utilities required;

h. Identify the location of proposed lease lines and well locations:

   i. Label distance between wellhead site and property lines;

   ii. Label distance between wellhead site and structures within 600 feet of wellheads as measured from the property line;

   iii. Label distance between temporary holding ponds and floodplains;

i. Provide typical well site schematics showing layout during drilling and upon completion of drilling;

j. Show location of all proposed underground pipelines;

k. Identify pipelines connected with a Gas Distribution System;

l. Identify the location of any fresh water wells;

m. Identify the location of all reserve pits, structures, tanks and all areas where equipment is to be stored;

n. Identify all required screening and shrubs;

o. Legal description of the property included within the plat and a metes and bounds description of perimeter of the plat encompassing the entire lease area;

p. Primary control points or descriptions (property corners), and ties to such control points to which all dimensions, angles, bearings, block numbers, and similar data shall be referred;

q. Location of Town limits, ETJ, and zoning district boundaries, if they traverse the plat, or form any part of the boundary of the plat, or are contiguous to the boundary of the plat;

r. Any proposed changes in topography shown by contour lines, spot elevations and flow arrows using two (2) foot vertical intervals;

s. A copy of all existing protective covenants regulating the use of land shall be submitted with an application for an Oil or Gas Well Development Plat; and

t. Written agreement(s) with notarized signatures of the owner(s) of the surface property on which the pad site is located for an Oil and Gas Well Development Plat and any person owning a residential structure located within six hundred (600) feet of a proposed wellhead site that grants authorization to drill within six hundred (600) feet of said residential structure(s) must be submitted with an application for an Oil and Gas Well Development Plat.

u. Names, addresses and telephone numbers of all lease holders and surface owners for the entire production unit.

7. As built drawings shall be filed with the Town.

(Ordinance 336-03 adopted 11/18/03; Ordinance 364-05 adopted 5/17/05; Ordinance 462-08 adopted 10/21/08; Ordinance 665-19, sec. 6, adopted 8/20/19)

§ 2.~~9~~7. Replatting.

a. Replat Required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by these regulations. All improvements shall be constructed in accordance with the same requirements as for a final plat, as provided herein. The Town of Bartonville may waive or modify requirements for a ~~land study and/or~~ preliminary plat under circumstances where the previously approved ~~land study or~~ preliminary plat is sufficient to achieve the purposes set forth in this Ordinance.

b. Replatting Without Vacating Preceding Plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

1. Is signed and acknowledged by only the owners of the property being replatted;

2. Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Town Council (no public hearing is required by the Planning and Zoning Commission); and

3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

c. Previous Requirements or Conditions of Approval Which Are Still Valid. In addition to compliance with (b) above, a replat without vacation of the preceding plat must conform to the requirements of this section if:

1. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or

2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

d. Notice of the public hearing required under (b) above shall be given before the fifteenth (15th) day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Denton County. Notice of the public hearing shall also be given by written notice, with a copy of any requested waivers/suspensions, sent to the owners, as documented on the most recently approved ad valorem tax roll of the Town, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved County tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the Town.

e. If the owners of twenty percent (20%) or more of the owners of the area of lots to whom notice is required to be given under Subsection (b) above file with the Town a written protest of the replatting before or at the public hearing, and if the replat requires a waiver/suspension as defined in Section 1.11, then approval of the replat will require the affirmative vote of at least three-fourths (3/4) of the Town Council members present. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the Town prior to the close of the public hearing. In computing the percentage of land area subject to the "20% rule" described above, the area of streets and alleys shall be included.

f. Compliance with Subsection (e) above is not required for approval of a replat or part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat~~other than single-family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat~~.

g. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed.

h. If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, a public hearing is not required for a replat of the area vacated.

i. The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.

j. The title shall identify the document as a "Final Plat" of the "__ Addition, Block __, Lot(s) __, Being a Replat of Block ___, Lot(s) ____of the ____Addition, an addition to the Town of

Bartonville, Texas, recorded as Plat #__ in Plat Cabinet #__ of the Plat Records of Denton County, Texas".

k. An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat (if submitted as hard copies), a completed application form, the required filing fee (per the Town's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

l. The replat shall be filed at the County in the same manner as prescribed for a final plat.

m. Minor replats involving four (4) or fewer lots are exempt from the requirements of Section 2.~~9~~7, however, such replats must meet the requirements of Section 2.~~12~~10.

(Ordinance 336-03 adopted 11/18/03; Ordinance 453-08, sec. 1, adopted 7/15/08)

§ 2.~~10~~08. Amending Plats.

a. An ~~amended~~ amending plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat (if submitted as hard copies), a completed application form, the required filing fee (per the Town's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

b. The Mayor (or designee) may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this Section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

1. Correct an error in a course or distance shown on the preceding plat;

2. Add a course or distance that was omitted on the preceding plat;

3. Correct an error in a real property description shown on the preceding plat;

4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

7. Correct an error in courses and distances of lot lines between two adjacent lots if:

a. Both lot owners join in the application for amending the plat;

b. Neither lot is abolished;

c. The amendment does not attempt to remove recorded covenants or restrictions; and

d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;

8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

9. Relocate one or more lot lines between one or more adjacent lots if:

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove recorded covenants or restrictions; and

c. The amendment does not increase the number of lots; or

10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

a. The changes do not affect applicable zoning and other regulations of the Town;

b. The changes do not attempt to amend or remove any covenants or restrictions; and

c. The area covered by the changes is located in an area that the Town has approved, after a public hearing, as a residential improvement area.

11. To replat one or more lots fronting on an existing street if:

a. the owners of all those lots join in the application for amending the plat;

b. the amendment does not attempt to remove recorded covenants or restrictions;

c. the amendment does not increase the number of lots; and

~~c.~~d. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

c. Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

d. The ~~amended~~ amending plat shall be entitled and clearly state that it is an "~~amended~~ amending plat." It shall also state the specific lots affected or changed as a result of the ~~amended~~ amending plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.

e. Other than noted above, the procedure for approval of ~~plat amendment(s)~~and amending plat shall be the same as ~~in Section 2.8 [sic].~~a final plat.

f. Approval of an amended plat shall expire unless the ~~amended~~ amending plat is recorded in the plat records of Denton County within ninety (90) days after the date of final approval of the ~~amended~~ amending plat.

g. The ~~amended~~ amending plat shall be filed at the County in the same manner as prescribed for a final plat.~~?~~

(Ordinance 336-03 adopted 11/18/03)

§ 2.~~11~~09. Plat Vacation.

a. By Property Owner. The property owner of the tract covered by a plat may vacate, upon the approval of the Planning and Zoning Commission and Town Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the Town, upon request).

b. By All Lot Owners. If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

c. Criteria. The Planning and Zoning Commission and Town Council shall approve the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the Town Council may direct the petitioners to prepare a revised final plat in accordance with these regulations such that the property does not become "unplatted."

d. Effect of Action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Planning and Zoning Commission's and Town Council's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the Town nor to the return of any property or consideration dedicated or delivered to the Town except as may have previously been agreed to by the Planning and Zoning Commission and Town Council.

e. Town-Initiated Plat Vacation.

1. General Conditions. The Planning and Zoning Commission and Town Council, on its motion, may vacate the plat of an approved subdivision or addition when:

a. No lots within the approved plat have been sold within five (5) years from the date that the plat was signed by the Town;

b. The property owner has breached an improvement agreement and the Town is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or

c. The plat has been of record for more than five (5) years and the Town determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and/or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

2. Procedure. Upon any motion of the Planning and Zoning Commission or Town Council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the Planning and Zoning Commission shall publish notice in a newspaper of general circulation in the County. The Planning and Zoning Commission shall also provide personal notice to all property owners within the subdivision or addition and to the Town Council. The notice shall state the time and place for a public hearing on the motion to

vacate the subdivision or addition plat. The Planning and Zoning Commission shall recommend approval and the Town Council shall approve the vacation only if the criteria and conditions cited above are satisfied.

3. Record of Notice. If the Planning and Zoning Commission and Town Council approve vacating a plat, the Town of Bartonville shall record a copy of the resolution or ordinance in the office of the County Clerk of Denton County with a copy of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the location (i.e., cabinet, volume, page, etc.) at which the vacating instrument is recorded. If the Planning and Zoning Commission and Town Council adopt a resolution or ordinance vacating a plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat has no effect.

(Ordinance 336-03 adopted 11/18/03)

§ 2.~~12~~10. Minor Plats and Minor Replats.

a. A minor plat or minor replat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat (if submitted as a hard copy), a completed application form, the required filing fee (per the Town's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13. This requirement shall not apply to a tax receipt for the current year's tax liabilities after September 1.

b. The Mayor and the Planning and Zoning ~~commission~~ Commission Chairman may approve a minor plat or minor replat, or may, for any reason, elect to present the plat to the Planning and Zoning commission and Town Council for consideration and approval. Any decision made on the plat by the Mayor and the Planning and Zoning Commission Chairman shall be approval of the plat. Should the Mayor and Planning and Zoning Commission Chairman refuse to approve the minor plat or minor replat, then the plat shall be referred to the Planning and Zoning Commission and/ or Town Council for consideration within the time period required by State law.

c. Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat or a minor replat.

d. The plat shall be entitled and clearly state that it is a "minor plat" or "minor replat" as the case may be.

e. Approval of a minor plat or minor replat shall expire unless the plat is recorded in the plat records of Denton County within ninety (90) days after the date of final approval of the minor plat.

f. The minor plat or minor replat shall be filed at the County in the same manner as prescribed for a final plat.

(Ordinance 336-03 adopted 11/18/03; Ordinance 453-08, sec. 2, adopted 7/15/08)

Part III
SUBDIVISION DESIGN STANDARDS

§ 3.1. Streets.

a. The arrangement, character, extent, width, grade and location of all streets shall conform to the Town of Bartonville's Thoroughfare Plan and EDS, and shall be considered in their relation to existing and planned streets or driveways (whether within the Town of Bartonville, within its ETJ area, or within adjacent municipal or County areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the Town in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with Section V and with the EDS.

b. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times.

c. Adequacy of Streets and Thoroughfares.

1. Responsibility for Adequacy of Streets and Thoroughfares. The property owner shall ~~assure~~ensure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the Town's cost participation policies on oversized facilities.

2. General Adequacy Policy. Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the Town's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

3. Road Network. New subdivisions shall be supported by a road network having adequate capacity, and safe and efficient traffic circulation. The adequacy of the road network for developments of fifty (50) or more dwelling units, or for developments generating five hundred (500) or more "one-way" trips per day, or for developments involving collector and/or arterial streets not appearing on the Town's adopted Thoroughfare Plan, shall be demonstrated by preparation (and submission prior to or along with the ~~land study or~~ preliminary plat application) of a traffic impact analysis prepared in accordance with subsection (f), Traffic Impact Analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the Town Council may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed ~~land study or~~ plat. In the event that the applicant submits a traffic impact analysis for an entire phased

development project, the Town may require an update of the study for later phases of the development. If the ~~land study/~~plat is in conformance with the Thoroughfare Plan and if the ~~land study/~~plat is for a development of less than fifty (50) dwelling units or for a development generating less than five hundred (500) "one-way" trips per day, then a traffic impact analysis is not required unless determined by the Town Engineer.

4. Approach Roads and Access. All subdivisions containing more than ten (10) lots with average lot sizes less than two and one-half acres (2-1/2 acres) must have at least two (2) points of vehicular access (primarily for emergency vehicles), and must be connected to the Town's improved thoroughfare and street system by one or more approach roads of such dimensions and approved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the density or intensity of the proposed development, if such need is demonstrated by traffic impact analysis.

A. "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) roads accessing the subdivision from the Town's improved thoroughfare/street system (i.e., at least two road entrances). The Town Council may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the Town's improved thoroughfare/street system provided that the median extends into the subdivision for an unbroken length of at least one hundred feet (100') to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision (i.e., the street is not a dead-end or cul-de-sac, and does not create a "bottleneck" allowing only one emergency route into the interior of the subdivision). (Also see Section 3.1.~~u~~v~~. [3.1v])~~)

B. The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated street as required by applicable zoning (or if no such requirement exists, minimum frontage of 100'), unless other provisions have been authorized through planned development approval.

C. Except for lots within a residential subdivision with two (2) or fewer lots, a minimum lot area of five (5) acres, and a minimum roadway frontage of five hundred feet (500') as measured along the front property line, direct access for individual lots within a subdivision onto a highway, thoroughfare or collector shall be limited as follows:

i. Residential Subdivisions:

a. Direct access onto Highways and Major Collectors as designated on the Thoroughfare Plan, as amended, shall be prohibited.

b. Direct access onto Minor Collectors as designated on the Thoroughfare Plan, as amended, may be allowed provided that a residential lot has a minimum frontage of three hundred (300) feet.

c. A minimum distance of three hundred (300) feet must be maintained between driveways onto a Minor Collector as designated on the Thoroughfare Plan, as amended. This minimum spacing shall be measured from the edge of pavement to the edge of pavement.

ii. Nonresidential Subdivisions:

a. Direct access onto Highways as designated on the Thoroughfare Plan, as amended, shall be restricted as follows:

1. A minimum distance of ~~two hundred and fifty (250~~three hundred (300) feet must be maintained between driveways. This minimum spacing shall be measured from the edge of pavement to the edge of pavement.

2. Driveways shall not be located closer than one hundred and fifty (150) feet from a street intersection. Said separation shall be measured from the edge of pavement to the edge of pavement.

3. A common access easement and fire lane easement shall be dedicated along the roadway to facilitate shared access. Said easement shall contain a minimum width of twenty-four (24) feet.

b. Direct access onto Major Collectors as designated on the Thoroughfare Plan, as amended, shall be restricted as follows:

1. A minimum distance of one hundred and fifty (150) feet must be maintained between driveways. This minimum spacing shall be measured from the edge of pavement to the edge of pavement.

2. Driveways shall not be located closer than seventy-five (75) feet from a street intersection. Said separation shall be measured from the edge of pavement to the edge of pavement.

3. A common access easement and fire lane easement shall be dedicated along the roadway to facilitate shared access. Said easement shall contain a minimum width of twenty-four (24) feet.

iii. Direct access onto Minor Collectors as designated on the Thoroughfare Plan, as amended, shall be restricted as follows:

a. A minimum distance of one hundred (100) feet must be maintained between driveways. This minimum spacing shall be measured from the edge of pavement to the edge of pavement.

b. Driveways shall not be located closer than fifty (50) feet from a street intersection. Said separation shall be measured from the edge of pavement to the edge of pavement.

5. Off-Site Improvements. Where traffic impact analysis demonstrates the need for such facilities, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or related developments. The Town may participate in the costs of oversize improvements with the subdivider as set out herein, and subject to the Town's cost participation policies on oversized improvements.

6. Street Dedications.

A. Dedication of Right-of-Way. The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan or other valid development plans approved by Town Council. In the case of perimeter streets, half of the total required right-of-way width for such streets shall be provided. However, in some instances more than half of the required width shall be required when a half-street is impractical or unsafe and depending upon the actual or proposed alignment of the street (i.e., as in a curved street), as may be required by the Town Council.

B. Perimeter Streets. Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated and improved by the developer of the subdivision or addition.

C. Slope Easements. The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet (3') horizontal run to one foot (1') vertical height (i.e., 3:1 slope).

7. Street Construction. All streets and thoroughfares shall be constructed to Town standards and within rights-of-way as required by the Thoroughfare Plan and these Regulations, and in accordance with the EDS and/or other Town standards as may be from time to time adopted.

8. Intersection improvements and traffic-control devices shall be installed as warranted in accordance with the traffic impact analysis required by subsection (f). Construction and design standards shall be in accordance with Town standards and the EDS.

9. Phased Development. Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares.

~~10. (Reserved)~~

d. Escrow Policies and Procedures.

1. Request for Escrow. Whenever these regulations require a property owner to construct a street or thoroughfare (or other type of public improvement), the property owner may petition the Town to construct the street or thoroughfare in exchange for deposit of escrow as established in this section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the Town may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The Town Council shall determine whether escrow is to be accepted in lieu of the obligation to construct the street or thoroughfare.

2. Deposit With the Town. Whenever the Town agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the Town. Such amount shall be paid prior to release of construction plans by the Town. The obligations and responsibilities of the property owner shall become those of property owner's transferees, successors and assigns; and the liability therefor shall be joint and several.

3. Determination of Escrow Amount. The amount of the escrow shall be determined by using the average of several comparable bids that were awarded by the Town in the preceding six (6) months or, if none exist, then in the preceding year or, if none exist, by using current costs of construction as determined by an estimate by the Town. Such determination shall be made as of the time the escrow is due hereunder.

4. Termination of Escrow. Escrows which have been placed with the Town under this section which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the Town has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, with accrued interest. Such return does not remove any obligations of the owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

5. Refund. If any street or highway for which escrow is deposited is constructed by a party other than the Town, or is reconstructed by another governmental authority at no cost to the Town, the escrowed funds and accrued interest shall be refunded to the property owner or developer who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the Town and the other portion of the cost by another party or governmental authority, the difference between the owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

6. Interest Limitation. If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent (1%) less than the rate of actual earnings.

e. Any ~~land study or~~ plat involving a significant change to a proposed roadway alignment from that shown on the Town of Bartonville's Thoroughfare Plan (or involving a development of fifty (50) or more dwelling units, or for developments generating five hundred (500) or more "one-way" trips per day) must be preceded by submission and approval of a traffic impact analysis as specified in subsection (f) below. Failure to provide for such approval prior to submission of a ~~land study or~~ preliminary plat (or concurrently with the ~~land study/~~preliminary plat application~~s~~) shall be grounds for automatic denial.

f. Traffic Impact Analysis. Whenever these regulations (or the Town, in unique instances which do not necessarily meet the above criteria but which may significantly affect the public health, safety and/or welfare, such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles) require submission and Town approval of a traffic impact analysis, the following elements shall be included:[3]

1. General Site Description. The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.

2. Proposed Capital Improvements. The traffic impact analysis shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width and/or alignment of roadways affected by the proposed development.

3. Roadway Impact Analysis.

   A. Transportation Impacts:

      i. Trip Generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the Town Engineer of the Town of Bartonville.

      ii. Trip Distribution. The distribution of trips to arterial and collector roadways within the study area identified in subsection 3.1.f.1 (General Site Description) above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to subsection 3.1.f.1 above.

   B. Adequacy Determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service "C" or above.

4. Intersection Analysis.

   A. Level of Service Analysis. For intersections within the roadway traffic impact analysis area described in subsection 3.1.f.1 herein (General Site Description), a

level of service analysis shall be performed for all arterial/arterial, arterial/collector, and collector/collector intersections, and for any other pertinent intersections identified by Town staff. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The Town may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

B. Adequacy Analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

5. Effect of Adequacy Determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in subsection 3.1.f.1 herein that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:

A. The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;

B. A reduction in the density or intensity of development;

C. The dedication and/or construction of facilities needed to achieve the level of service required herein; or

D. Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

g. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the Town's Thoroughfare Plan (e.g., local residential streets), the arrangement of such streets within a subdivision shall:

1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;

2. Conform to a plan for the neighborhood approved or adopted by the Town to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

3. Provide for future access (i.e., provide stubbed streets for future extension) to adjacent vacant areas which will likely develop under a similar zoning classification and/or for a similar type of land use; and

4. Not conflict in any way with existing or proposed driveway openings.

h. Minor residential streets shall be laid out such that their use by through traffic will be discouraged (e.g., via circuitous routes, multiple turns/offsets, etc.), but access is provided to adjacent subdivisions.

i. Where a subdivision abuts or contains an existing or proposed arterial street, the Town may require marginal access streets, reverse frontage (lots which back onto the arterial), or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

j. Reserve strips controlling access to streets shall be prohibited except where their control is ~~definitely~~ placed by the Town under conditions approved by the Planning and Zoning Commission and Town Council.

k. Intersecting streets with centerline offsets of less than three hundred feet (300') are prohibited unless a waiver is first obtained from the Town Council in accordance with the requirements of the waiver provisions set forth in Section 1.11 of the Town's Development Ordinance, as amended. In any event, intersecting streets onto a divided roadway must be configured such that the centerline offset will accommodate the appropriate left-turn lanes (with required transition and stacking distances) onto each of the two intersecting streets.

l. Major thoroughfare intersections shall be at ninety degree (90°) angles and tangent to the intersecting street for at least fifty feet (50'). Other street intersections shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect at less than eighty degrees (80°).

m. Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections in the Comprehensive Plan.

n. Construction of half-streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations and the Thoroughfare Plan, and where the Town makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The Town may also find that it would be more practical (and/or cost effective) to delay construction of the other half of a street when the adjoining property is developed.

If the owner or subdivider is responsible for one-half (1/2) of the street, then the owner or subdivider shall either construct the facility along with his development or shall provide escrow for the construction cost of his share of the facility unless the Town participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street (i.e., whatever amount of right-of-way that will bring the street up to its standard width) shall be dedicated. Improvements shall be made to all on-site facilities as defined herein (see Definitions, Section 1.16).

o. The maximum length of any block or street segment shall not exceed one thousand and five hundred feet (1,500'), as measured along the street centerline and between the point(s) of intersection with other through (i.e., not dead-end or cul-de-sac) streets.

p. A cul-de-sac street shall not be permitted except in subdivisions of five or more lots; in the event that such street is permitted, it may not exceed the following lengths, as measured along the centerline of the street:

1. Cul-de-sacs containing ten (10) or fewer lots - 1,500 feet;

2. Cul-de-sacs containing ten (10) to twenty (20) lots - 1,000 feet; or

3. Cul-de-sacs containing more than twenty (20) lots - 600 feet.

q. Cul-de-sacs shall be designed with the following right-of-way and paving at the outside diameter at the closed end and for interim turnarounds as follows:

1. Cul-de-sacs measuring 1,000 to 1,500 feet in length.

A. Right-of-Way - 140 feet outside diameter

B. Paving - 120-foot outside diameter

C. Turnarounds - full knuckles shall be constructed a maximum interval of 500 feet with a minimum outside right-of-way diameter of 100 feet and a minimum outside paving diameter of 80 feet

2. Cul-de-sacs measuring from 600 to 1,000 feet in length.

A. Right-of-Way - 140 feet outside diameter

B. Paving - 120-foot outside diameter

C. Turnarounds - full knuckles shall be constructed a maximum interval of 500 feet with a minimum outside right-of-way diameter of 100 feet and a minimum outside paving diameter of 80 feet

3. Cul-de-sacs measuring up to 600 feet in length.

A. Right-of-Way - 100 feet outside diameter

B. Paving - 80-foot outside diameter

r. The Planning and Zoning Commission and/or Town Council may approve waivers/suspensions for overlength streets and/or cul-de-sacs (temporary or permanent) upon considering the following:[4]

1. Alternative designs which would reduce street/cul-de-sac length;

2. The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and

3. Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

s. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets

which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turn-around bulb (with an off-site easement) is provided at the end. A temporary dead-end street shall not exceed six hundred feet (600') in length, and the temporary turn-around bulb must be constructed like a cul-de-sac, as provided in subsection ~~(p) [~~(q)~~]~~ above (the Town Council may authorize the use of asphalt or other durable paving material than concrete for the arc portions of the temporary turn-around bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub (i.e., on the barricade) also stating that the street will be extended in the future (signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot distance).

t. New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets.

u. Construction of New Streets. All new streets dedicated within a subdivision shall be constructed in accordance with paving widths and specifications as set forth in the EDS of the Town of Bartonville at the time at which the preliminary plat is approved.

v. Points of Access. All subdivisions shall have at least two (2) points of access as specified by Section 3.1.c.4. ~~All~~ Beyond the minimum two points of access, all residential developments shall provide no less than one (1) entrance for every forty (40) lots, or portion thereof, including dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an existing arterial or collector street.

~~w. Streets will be constructed in accordance to the Town's construction standards (i.e., EDS) that are in effect at the time of subdivision construction.~~

~~x.~~w. Areas outside the Town which are being subdivided or have been subdivided pursuant to the ordinances of some other political subdivision or for which there exist no regulations shall not project streets into the corporate limits of the Town or tie into or have access onto existing Town of Bartonville roadways or streets without the approval of the Town Council.

1. Procedure in such cases.

A. An applicant for such access shall file an application with the Town Secretary, on forms to be supplied by the Town, which shall identify all access points to Town roads and streets for the land involved, and contain all of the information required in the Town's Development Ordinance, as amended.

B. After a preapplication conference with the Town Administrator and Town Engineer, the application shall be forwarded to the Planning and Zoning Commission, which shall hold public hearings after published notice required for zoning cases, as contained in the Town's Zoning Ordinance, as amended. After the public hearing and recommendation, the Planning and Zoning Commission shall forward the application to the Town Council for consideration.

C. The Town Council shall hold public hearings after published notice required for zoning cases, as contained in the Town's Zoning Ordinance, as amended. The Town Council may approve or reject the application for access or take such other action as is lawful and appropriate.

D. This procedure shall not apply to state or federal designated roadways. This process shall not apply to existing roads being rebuilt, expanded or realigned by another governmental entity with Town of Bartonville participation as may be defined in a Town Council approved interlocal agreement with the other governmental entity.

2. Studies required.

A. The applicant may be required to conduct studies for review by the Planning and Zoning Commission and Town Council, giving a clear understanding of the effects of the traffic directly or indirectly caused by the proposed road or street extension and connection upon the Town's thoroughfare system and demonstrating the method by which the applicant shall accomplish the following objectives:

i. to coordinate public and private investment;

ii. to minimize conflict between land uses;

iii. to influence and manage the development of the Town;

iv. to increase the benefits and cost-effectiveness of public investments;

v. to predict public infrastructure and service needs in advance of demand;

vi. to ensure that Town facilities are located to best serve the citizens; and

vii. to ensure public safety on affected Town roads and streets, both during and after construction.

B. A traffic impact analysis may be required by the Town which shall determine the effect and impact that the extension of roads and streets into the Town's transportation system will have on the Town's existing and planned roads and streets in accordance with Subsection 3.1.f of this Section, above. The applicant shall pay to the Town a fee to cover the expense of reviewing the traffic impact analysis. ~~and~~ T~~t~~he fee determination will be made by the Town after review of the type, size and location of the proposed road or street extension.

C. The applicant may be required to conduct studies which demonstrate that the proposed road or street extension will not adversely affect the public health, safety and general welfare of the citizens of the Town of Bartonville and will provide reasonable protection to properties within the Town that will be impacted by the additional traffic projected to come into the Town by virtue of the extension of the road or street into the Town's transportation system.

3. Engineering requirements.

A. The applicant shall prepare, or have prepared, and submit complete engineering plans in accordance with Section V and the Town's Engineering Design Standards, for the design and construction of the road or street that is proposed to extend into the Town's transportation system.

B. All construction of roads or streets within the Town or that adjoin or otherwise touch a Town road or street shall be done in accordance with Section V and the Town's Engineering Design Standards, from the point of such touching the

existing road or street to the Town's corporate limits or the end of the radius of the curb return outside the Town, whichever is further.

C. The applicant must pay the required inspection fee in an amount required by the Town at the time of application.

D. The applicant shall provide as-built drawings and an appropriate maintenance bond, as otherwise provided in the Town's Development Ordinance, as amended.

E. The applicant shall be responsible for all construction costs of extensions of Town roads and streets and modifications to existing Town roads and streets. If such construction is determined by the Town to be impractical, then sufficient escrow funds shall be provided to the Town in lieu of construction of the required paving.

4. No vesting of rights by actions of other political subdivisions. The approval of any zoning district classification, subdivision or development plat, or similar development applications or requests pursuant to the ordinances of some other political subdivision shall not vest any rights, as that term is used in Chapter 245 of the Texas Local Government Code, as amended, in the Town of Bartonville.

(Ordinance 336-03 adopted 11/18/03; Ordinance 391-06, sec. 2, adopted 6/20/06; Ordinance 742-22 adopted 11/15/2022)

§ 3.2. Alleys.

Alleys shall be prohibited for all residential and nonresidential developments.

(Ordinance 336-03 adopted 11/18/03)

§ 3.3. Easements.

a. The minimum width for Town utility and drainage easements shall be fifteen feet (15') unless otherwise established by the Town Engineer. The width of easements for other utility providers (e.g., gas, electric, telephone, cable TV, etc.) shall be as required by that particular entity. It shall be the subdivider's responsibility to determine appropriate easement widths required by other utility companies (also see Section 3.~~8~~7). Generally, easements shall be centered along side lot lines and located along the roadway frontage.

b. Where a subdivision is traversed by a watercourse, drainageway, or channel, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the Town Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA). Parallel streets or parkways may be required adjacent to certain portions of creek or drainageways to provide maintenance access or access to recreation areas (see Section 4). Town approved utilities may be permitted within the drainage easement if approved by the Town Engineer.

c. A lot's area shall be computed inclusive of all easements except drainage easements. However, there shall be a minimum buildable area, exclusive of easements, for each lot. The minimum buildable area shall be an area equal to one-half (1/2) of the required minimum lot

size. If the Town disputes the buildable area of any lot, the subdivider shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot.

d. A minimum ten-foot (10') wide franchise utility easement shall be provided along the front property line (i.e., street frontage) of all lots and adjacent to a right-of-way.

e. For new development, all necessary on-site easements shall be established on the subdivision plat (i.e., not by separate instrument), and they shall be labeled for the specific purpose (and to the specific entity) for which they are provided. Examples would include the following: water, sanitary sewer and/or drainage easement (dedicated to the Town for a water or sanitary sewer line, or for a drainage structure); access easement (dedicated to the public for unrestricted access purposes); fire lane easement (dedicated to the Town for emergency access purposes); TXU easement (dedicated to Texas Utilities); etc.

(Ordinance 336-03 adopted 11/18/03)

§ 3.4. Blocks.

a. The length, width and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

2. Zoning requirements as to lot sizes, setbacks and dimensions.

3. Needs for convenient access, circulation, control and safety of street traffic and/or for pedestrians or bicyclists traveling to a public park or school site within the neighborhood.

b. In general, intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision controls, the block lengths shall not exceed one thousand two hundred feet (1,200') in length. Where no existing subdivision controls, the blocks shall not be less than five hundred feet (500') in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (via a waiver/ suspension by Town Council with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

(Ordinance 336-03 adopted 11/18/03)

§ 3.5. Lots.

a. Lots shall conform to the minimum size requirements of the zoning district established in the Bartonville Comprehensive Zoning Ordinance.

~~b. No flag lots shall be created under this design standard adopted by this Ordinance.~~

~~c.~~b. Lot access onto arterial and collector streets is subject to approval by the Town Engineer, who may require a traffic study or other data/information prior to approval of the preliminary plat in order to fully study all access issues. Unless otherwise specified by the zoning district

in which a subdivision is located, all lots shall have a minimum of one hundred feet (100') of frontage along a dedicated, improved street, except and as provided below:

1. Lots with frontage directly onto a cul-de-sac bulb or turnaround shall have a minimum of sixty feet (60') of frontage along a dedicated, improved street.

~~d.~~c. Double frontage lots, with street frontage on front and rear lot lines, are prohibited except for lots with frontage on Farm to Market Road 407.

(Ordinance 336-03 adopted 11/18/03; Ordinance 391-06, sec. 3, adopted 6/20/06; Ordinance 669-19 adopted 9/17/19)

§ 3.6. Building Lines.

Front and street side building lines shall be shown on the preliminary and final plat for all lots, and shall be consistent with the Zoning Ordinance requirements for the district in which the development is located (if subject to the Town's zoning regulations).

(Ordinance 336-03 adopted 11/18/03)

§ 3.7. Utility Services (not provided by the Town of Bartonville).

a. For purposes of this section, the following meanings shall apply:

1. "Utility services" - The facilities of any person, firm or corporation providing water, sewer, electric, natural gas, telephone, TV cable, or any other such item or service for public use approved but not provided by the Town of Bartonville.

2. "Feeder or feeder/lateral line" - High voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

3. "Lateral lines" - Those electric or telephone lines used to distribute power from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

4. "Service lines" - Those electric lines used to connect between the utilities' supply system or lateral lines and the end user's meter box.

b. All subdivision plats and construction plans filed with and submitted to the Town of Bartonville for approval shall provide for utility services such as water, sewer, electrical, gas, telephone and cable TV utility (lateral and/or service distribution) lines and wires to be placed underground. Said utility services shall be designed, installed, and constructed in accordance with the Town's adopted design standards.

c. Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the owner or developer in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the owner or developer of the subdivision has made

arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.

d. All electrical and telephone support equipment, including transformers, amplifiers, and switching devices necessary for underground installations, shall be pad-mounted or mounted underground.

e. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

f. Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of this Ordinance to be placed underground.

(Ordinance 336-03 adopted 11/18/03; Ordinance 414-06, sec. 3, adopted 1/16/07)

§ 3.8. Water and Wastewater Facility Design.

a. All new subdivisions shall be connected with an approved water system designed and constructed in accordance with the EDS, as amended, and shall be capable of providing water for health and emergency purposes, including fire protection. Each platted lot may be served by a private on-site sanitary facility installed and maintained as required by the Town of Bartonville. The Town may require the phasing of development and/or improvements in order to maintain adequate water and/or wastewater capacity. It shall be the subdivider's responsibility to extend utility lines to provide water or sanitary sewer service.

b. It shall be the subdivider's responsibility to design all improvements according to the Town's then-current Comprehensive Plan, utility/infrastructure system plans, and EDS. The cost to be borne by the subdivider and any reimbursement from subsequent users of the facility shall be in accordance with the provisions of the Town's policy(s) regarding same, and subject to the Town's cost participation policies on oversized improvements.

c. Extension of water and wastewater lines adjacent to any subdivision shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connection to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Town of Bartonville may waive the requirement for adjacent utility line construction.

d. Installation of utilities not specifically referenced herein shall comply with the Texas Commission on Environmental Quality (TCEQ) and/or other applicable State rules and regulations.

(Ordinance 336-03 adopted 11/18/03)

§ 3.9. Stormwater Collection/Conveyance Systems.

a. System Design Requirements. Drainage improvements shall accommodate runoff from the upstream drainage area, and shall be designed to prevent overloading the capacity of the downstream drainage system. The Town may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No stormwater

collection system shall be constructed unless it is designed in accordance with the Town of Bartonville's construction standards (i.e., EDS) by a registered professional engineer and approved by the Town Council. All plans submitted to the Town of Bartonville for approval shall include a layout of the system together with supporting calculations for the design of the system. In addition to any others, the plans shall conform to the Town of Bartonville's EDS, and shall conform to the following standards and minimums:

1. All drainage systems must be designed for a one hundred (100) year base storm intensity.

2. Runoff conveyed in roadway drainage ditches shall be confined to the ditch. The flow velocity in the ditch shall not exceed six feet (6') per second, and the ditch side slopes shall not exceed three feet (3') horizontal to one foot (1') vertical (i.e., 3:1 slope). The center of the ditch shall be at least ten feet (10') from the road edge.

3. No cross-street (i.e., perpendicular to traffic flow) flow of runoff shall be permitted unless approved by the Town Engineer. When such drainage is allowed, it must be across a concrete street (i.e. valley gutter) and as approved by the Town Engineer.

4. For drainage in creeks or streams, or if the natural condition is altered by the developer, for any excavated channels, if the flow is greater than six feet (6') per second or the slope exceeds 3:1, limestone or similar acceptable rock, a reinforced concrete pilot channel, a concrete channel lining, and/or some other erosion prevention device shall be required by the Town. Location and type of construction of the open channel and all other drainage structures must be approved by the Town Engineer. These drainage facilities must be within an easement to ensure protection of the area and access for maintenance.

5. If the flow is less than six feet (6') per second and if the slope does not exceed 3:1, the creek or excavated channel may be platted as part of the individual lots. The owners of these lots will be responsible for maintenance. Sufficient access shall be provided for protection of these areas and for maintenance purposes.

6. For erosion and sedimentation control, the Town uses the "Storm Water Quality Best Management Practices for Construction Activities in North Central Texas" (by NCTCOG), a copy of which is on file in the City Secretary's office.

b. No individual, partnership, firm, or corporation shall deepen, widen, fill/reclaim, reroute or change the course or location of any existing ditch, channel, stream, or drainageway, without first obtaining written permission of the Town or other agency (e.g., FEMA) having jurisdiction. The Town may, at its option, require preparation and submission of a FEMA/flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

(Ordinance 336-03 adopted 11/18/03)

Part IV
PUBLIC SITES AND OPEN SPACES

§ 4.1. Areas for Public Use.

The subdivider shall give consideration to suitable and adequate sites for schools and other areas for public use or service so as to conform with the recommendations contained in the Town's Comprehensive Plan and other applicable plans. Any provision for schools and/or other public facilities shall be indicated on the preliminary and final plat, and shall be subject to approval by the Planning and Zoning Commission and Town Council.

(Ordinance 336-03 adopted 11/18/03)

§ 4.2. Protection of Drainage and Creek Areas.

a. Definitions and Methodology for Determining the Floodway Management Area (FMA).The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and Town engineering criteria.

   For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to the floodway, as defined by FEMA.

b. Areas Where an FMA is Required. All drainage areas or regulated floodways as referenced by the panel numbers appropriate to the Town of Bartonville on the Floodway and Flood Boundary Map (FIRM maps) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a registered professional engineer and approved by the Town Engineer. Where improvements to a drainage area are required by other ordinances of the Town for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted or required by the Town due to the pending development of properties adjacent to or upstream of the required improvements.

c. Ownership and Maintenance of the FMA. The area determined to be the FMA shall be designated on and part of the final plat. Approximate locations shall be shown on zoning change requests and preliminary plats - accurate locations of the FMA shall be established on the final plat. At the Town's option, the FMA shall be protected by one of the following methods:

   1. Dedicated to the Town of Bartonville; or

2. Easement(s). Creeks or drainageways in tracts which have private maintenance provisions, other than residential platted lots, can be designated as the FMAs by an easement to the Town on the final plat (with the appropriate plat language, as required by the Town).

   Subdivisions with platted residential lots may designate the FMA by easement provided there is adequate maintenance provisions, but no lots or portions of lots may be platted in the easement unless specifically allowed by the Town. The area designated as FMA may be identified by a tract number; or

3. Certain recreational uses normally associated with or adjacent to flood-prone areas (no structures allowed in the FMA), such as golf courses, may be allowed. The uses allowed shall be in conformance with the Zoning Ordinance and approved by the Planning and Zoning Commission and Town Council.

Prior to acceptance of any drainageway as an FMA by the Town, the area shall be cleared of all debris. Floodway management areas dedicated to the Town shall be left in a natural state except those areas designated for recreational purposes.

d. Design Criteria.The following design criteria shall be required for development adjacent to the FMA:

1. Adequate access must be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided.

2. Lots in a single-family, PD residential zoning district shall not be platted within the FMA~~, and no more than fifty percent (50%) of the length of the FMA (on each side) shall be allowed to have lots backing or siding onto it~~. If lots back or side onto an FMA, at least two reasonable points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles. All areas of the FMA must be accessible from the access points.

3. Public streets may be approved in the FMA by the Planning and Zoning Commission and Town Council (if they conform to applicable engineering standards).

4. Public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.

5. Alternate designs to facilitate equal or better access may be permitted if approved by the Town Engineer.

e. Drainage areas which have been altered and are not in a natural condition can be exempted from an FMA and this Section at the discretion of the Town Council and upon recommendation by the Town Engineer.

(Ordinance 336-03 adopted 11/18/03)

§ 4.3. Property/Homeowners' Associations.

a. Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the Town of Bartonville for public use (e.g., private recreation facility, landscaped entry features, privately owned streets, etc.), a property/ homeowners' association agreement consistent with State and other appropriate laws, must be submitted to and approved by the Town of Bartonville, and made a part of the final plat documents. The Conditions, Covenants and Restrictions (i.e., CCRs) and the association documents (i.e., articles of incorporation, bylaws) shall be submitted to the Town for review and Town approval along with the final plat application, and shall be filed of record prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements (also see Section 3.1c.10.(e) [sic]). Said documents must, at a minimum, include provisions which allow the Town to take over the maintenance of common property (including private recreation facilities, etc.) using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. Provisions shall also be included which would, in the latter instance, convey ownership of the common property (if any) to the Town, and which would allow the Town to remove any improvements/amenities from the common areas and sell any buildable land area (as residential lots) to recoup the Town's expenses for maintenance and/or demolition of the improvements.

Any monies that remain after the Town has recovered all of its expenses shall be retained for future maintenance/upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the Town to profit in any way from taking over the association's responsibilities/funds - they are only intended to allow the Town to recoup its actual incurred expenses such that the general public (i.e., the taxpayers of the Town) does not have to bear these costs.

b. Membership. A property/homeowners' association shall be an incorporated nonprofit organization operating under recorded land agreements through which:

1. Each lot owner within the described land area is automatically a member (i.e., membership in the association is mandatory); and

2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the property/homeowners' association's activities, such as maintenance of common open spaces or the provision and upkeep of common recreational facilities.

c. Legal Requirements.

In order to assure the establishment of a proper property/homeowners' association, including its financing, and the rights and responsibilities of the property/home owners in relation to the use, management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:

1. Legally create an automatic membership, nonprofit property/homeowners' association;

2. Place title to the common property in the property/homeowners' association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;

3. Appropriately limit the uses of the common property;

4. Give each lot owner the right to the use and enjoyment of the common property;

5. Place responsibility for operation and maintenance of the common property in the property/ homeowners' association;

6. Place an association charge on each lot in a manner which will both assure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;

7. Give each lot owner voting rights in the association; and

8. Must identify land area within the association's jurisdiction including but not limited to the following:

   A. Property to be transferred to public agencies;

   B. The individual residential lots;

   C. The common properties to be transferred by the developer to the property/ homeowners' association; and

   D. Other parcels.

9. Any governmental authority or agency, including, but not limited to, the Town and the County, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property/homeowners' association fail to maintain the common elements to Town specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, then the Town shall have the same right, power and authority to enforce the association's rules and to levy assessments necessary to maintain the common elements. The Town may elect to exercise the rights and powers of the property/ homeowners' association or its Board, or to take any action required and levy any assessment that the property/homeowners' association might have taken, either in the name of the property/homeowners' association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any common elements.

d. Protective Covenants. Protective covenants shall be developed which, among other things, shall make the property/homeowners' association responsible for:

   1. The maintenance and operation of all common property;

   2. The enforcement of all other covenants;

   3. The administration of architectural controls (optional); and

   4. Certain specified exterior maintenance of exterior improvements of individual properties (optional).

e. The association may not be dissolved without the prior written consent of the Town Council.

f. No portion of the association documents pertaining to the maintenance of common areas/ property, and assessments therefor, may be amended without the written consent of the Town Council.

(Ordinance 336-03 adopted 11/18/03)

Part V
IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE TOWN

§ 5.1. Improvements.

a. The requirements of the Development Ordinance as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the Development Ordinance, all improvements as required herein are installed properly and:

1. The Town can provide for the orderly and economical extension of public facilities and services;

2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and

3. All required improvements are constructed in accordance with Town standards.

b. Adequate Public Facilities Policy. The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the Town. Wherever the subject property abuts adjoining undeveloped land and/or wherever required by the Town to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such property is platted.

c. The public improvements required by the Town of Bartonville for the acceptance of the subdivision by the Town shall include, but are not limited to, the following:

1. Water and wastewater facilities;

2. Drainage facilities;

3. Streets;

4. Street signs;

5. Traffic-control devices required as part of the project; and

6. Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.

d. All aspects of the design and implementation of public improvements shall comply with the Town's current design standards and any other applicable Town codes and ordinances, including preparation and submittal of construction plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the Town's EDS, as may be amended.

e. Changes or Amendments to the EDS and Other Construction/Design Documents. The Engineering Design Standards (EDS) will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the EDS (i.e.,

Appendix A) may be amended by separate ordinance. It is the developer's responsibility to obtain a copy of, and be familiar with, the Town's latest EDS.

(Ordinance 336-03 adopted 11/18/03)

§ 5.2. Monuments.

In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half inch (1/2") in diameter and eighteen inches (18") deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (1/2") and eighteen inches (18") deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final inspection of the subdivision by the Town. Lot corners shall be installed prior to issuance of a building permit.

(Ordinance 336-03 adopted 11/18/03)

§ 5.3. Street Names and Signs.

a. Street names must be submitted to the Town for review and approval in accordance with the Town's guidelines for the naming of streets. Proposed street names shall be submitted for review along with (and as a part of) the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the Town (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for Town staff review and approval along with the final plat application. A fee may be established by the Town for the changing of street names after approval of the preliminary plat.

b. Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the Town Council. The Town will maintain a list of existing street names (and "reserved" street names that have been approved on a preliminary plat), and will update the list as new streets are platted.

c. New street names shall not duplicate existing street names either literally or in a subtle manner (e.g., Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle), shall not be so similar as to cause confusion between names (e.g., Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive), and shall not sound like existing street names when spoken (e.g., Oak Drive vs. Doak Drive; Lantern Way vs. Land Tern Way).

d. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise approved by Town Council.

e. The developer shall provide all street identification signs and attachment hardware for streets within the subdivision, to include frontage entrances onto F.M. 407. The street identification signs shall be high intensity prismatic constructed of 9" flat aluminum and shall include the Town Logo on the left side with 6" white reflective letters on a green background, indicating the street name, as provided in the Town's Engineering Design standards. The Developer

shall provide poles and attachment hardware and any necessary traffic-control signs (such as stop signs) as directed by the Town Engineer.

f. Street name signs shall be installed in accordance with the Town's guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

(Ordinance 336-03 adopted 11/18/03; Ordinance 605-16 adopted 7/19/16)

§ 5.4. Street Improvements.

a. All on-site (i.e., internal) streets shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Ordinance. If the subdivision is adjacent to a planned/future or substandard arterial or collector street (as shown on the Town's Thoroughfare Plan) and derives access (either direct or indirect) from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway (as well as any required median openings/left turn lanes needed to serve his subdivision) (see Section 5.8). The Town Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction/improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

b. All streets shall be constructed using reinforced concrete, unless otherwise approved by the Town Council, and per the specifications in the Town's EDS.

c. Where street sections require the construction of curb and gutter, the minimum street and curb and gutter standards for which the construction shall be made by the developer are shown in the EDS.

d. All signs and barricades shall be in conformity with the EDS, with ADA standards, and/or with specifications for uniform traffic-control devices, as adopted by the Texas Department of Transportation and/or the Texas Department of Public Safety.

e. Approval is required prior to the installation of any driveway connecting to a public street. The Town Engineer shall approve all driveway cuts. The minimum distance (as measured from edge/ curb to edge/curb of driveways, and not from the centerlines of the driveways) between driveway openings for all developments shall be as specified by Section 3.1 c.4.c. of this Ordinance. Driveways shall not be within the transition or stacking portion of a right turn lane.

f. Where a residential subdivision contains two (2) or fewer lots with each lot containing a minimum of five (5) acres and each lot within the residential subdivision contains a minimum lot frontage of three hundred (300) feet as measured at the right-of-way for all lot lines adjacent to an existing paved public street that is adequate to serve the lot(s), then the perimeter street improvement requirements shall not apply.

(Ordinance 336-03 adopted 11/18/03)

§ 5.5. Retaining Wall Requirements, Construction Regulations, and Design Criteria.

a. Retaining Wall Requirements. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:

1. Location A. The grade change roughly follows a side or rear lot line.

2. Location B. The grade change is adjacent to a proposed building site boundary.

3. Location C. The grade change is adjacent to a watercourse or drainage easement.

b. Retaining Wall Design and Construction. All retaining wall design and construction shall be in compliance with the provisions of the Building Code and/or the EDS of the Town of Bartonville, and shall be approved by the Town Engineer.

c. Retaining Wall Maintenance. Retaining walls shall be maintained by the owner of the property where such retaining wall is located.

d. Retaining walls shall not be constructed parallel to and within any portion of a utility easement.

(Ordinance 336-03 adopted 11/18/03)

§ 5.6. Landscaping Construction Regulations, Requirements and Design Criteria.

a. Entryway Features (neighborhood identification).

1. Subdivisions in excess of ten (10) platted lots may provide a low-maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use (limited portions of the feature/landscaping may be placed within the right-of-way), and shall observe all sight visibility requirements. Most of the feature/landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved homeowners' association (see Section 4.3).

2. Design Requirements. The entryway feature shall include low-maintenance, living landscaped materials as approved by the Town. The design of the entryway feature shall also include an automatic underground irrigation system, and may also include subdivision identification (i.e., signage located on the wall). All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container/ball size (as per the latest edition of the "American Standard for Nursery Stock," by the American Association of Nurserymen, as may be amended). Any walls or structures used in the entryway feature must conform to the Town's regulations pertaining to maximum height within the front yard of residential lots (see the Zoning Ordinance) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.

3. The design of the entryway shall be in accordance with design policies as provided by the Town of Bartonville. The design of the entry shall be reflected on the engineering plans submitted with the final plat, and shall be approved by the Town in conjunction with approval of the construction plans.

4. The maintenance of the entryway shall be the responsibility of the developer for a period of at least two (2) years or until building permits have been issued for eighty percent (80%) of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved

homeowners' association (see Section 4.3). If, at some point in time, the maintenance responsibility shifts to the Town, the Town shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify and/or minimize the amount of time and effort that maintenance of the entryway will require.

(Ordinance 336-03 adopted 11/18/03)

§ 5.7. Water and Sewer Requirements.

a. The installation of all water and wastewater lines shall be in conformance with the EDS.

b. No final plat shall be approved for any subdivision within the Town or its extraterritorial jurisdiction until the subdivider has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the Town's master plans for water and wastewater facilities and with the EDS, and shall be approved by the Town Engineer.

c. Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate fire protection to all lots shall be provided.

d. Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structure when connections are made.

e. Fire hydrants shall be installed in residential areas every five hundred feet (500') of hose laying distance, and in nonresidential areas every three hundred feet (300') of hose laying distance. The Fire Marshal shall have the authority to approve the locations and placement of all fire hydrants (and fire lanes), and may, at his discretion, modify fire hydrant spacing based upon special design/distance circumstances.

(Ordinance 336-03 adopted 11/18/03)

§ 5.8. Improvement of Adjacent (Perimeter) Streets and Utilities.

a. When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street (or on a planned/future road as shown on the Thoroughfare Plan), being substandard according to the then existing current Thoroughfare Plan, the developer shall be required to improve the existing on-site facility as that term is defined herein, including landscaping, stormwater drainage, and other utilities as defined in Section 1.16, to bring the same to Town standards, or to replace it with a standard Town street as determined by the traffic impact analysis (if required; see Section 3.1), at no cost to the Town.

b. The developer's share of a perimeter road shall be eighteen and one-half feet (18.5') of pavement along the entire front footage of the subdivision (unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve/maintain an acceptable level of service on the roadway). If the subdivision is to be located on both sides of the roadway, eighteen and one-half feet (18.5') of pavement will be constructed by the developer on each side of the road along the entire front footage of the subdivision on each

respective side of the road (unless the traffic impact analysis determines otherwise). Design and construction of the roadway shall be in accordance with the Town's Thoroughfare Plan (right-of-way width and general location), EDS, and with any other applicable Town codes and ordinances. Depending upon the specific roadway in question (and upon the traffic impact analysis results), any oversizing above the eighteen and one-half foot (18.5') width shall be borne by the Town, the County, the State or by some other entity. The Town Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction/improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

c. Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in Section 3.1. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub (on the barricade) also stating that the street will be extended in the future (signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of twenty feet).

(Ordinance 336-03 adopted 11/18/03)

§ 5.9. Storm Drainage.

a. An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions and/or inadvertent stormwater retention (i.e., standing or pooling water), as established by the Town, will not be considered for development until adequate drainage has been provided.

b. The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to the Town of Bartonville's drainage criteria in the EDS. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Stormwater drainage from one residential lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s) and unless specifically approved by the Town Engineer.

c. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment and/or trash from drainage improvements, with the exception of backlot and sidelot drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The Town shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

(Ordinance 336-03 adopted 11/18/03)

Part VI
REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE TOWN OF BARTONVILLE

§ 6.1. Withholding Town Services and Improvements Until Acceptance.

The Town hereby defines its policy to be that the Town will withhold all Town services and improvements of whatever nature, including the maintenance of streets, the furnishing of sewage facilities, water service, other utility service, and all other Town services from all additions until all of the street, utility, storm drainage and other public improvements, as well as lot improvements (e.g., grading and installation of improvements required for proper lot drainage and prevention of soil erosion, retaining walls, etc.) on the individual residential lots, are properly constructed according to the approved engineering plans and to Town standards, and until such public improvements are dedicated to and accepted by the Town.

(Ordinance 336-03 adopted 11/18/03)

§ 6.2. Guarantee of Public Improvements.

a. Subdivider's Guarantee. Before approving the final plat of a subdivision located all or partially within the Town and/or the Town's extraterritorial jurisdiction, the Town Council must be satisfied that all required public improvements shall have been constructed in accordance with the approved construction plans and with the requirements of this Ordinance.

b. Improvement Agreement and Guarantee. The Town Council, upon recommendation by the Planning and Zoning Commission, may waive the requirement that the applicant complete and dedicate all public improvements prior to filing of the final plat, and may permit the property owner to enter into an improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is filed. The Town Council may also require the property owner to complete and/or dedicate some of the required public improvements prior to filing of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the Town. Nothing within this section shall nullify the Town's obligation to participate in the construction of oversized facilities, pursuant to the Town's cost participation policies on oversized improvements.

c. Improvement Agreement Required for Oversize Reimbursement. The Town shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the Town for oversize costs. The Town Council shall authorize the approval of such agreement as meeting the requirements of the Town, and the Town shall not withhold approval as a means of avoiding compensation due under the terms of this Ordinance. The Mayor/Town Administrator (or designee) is authorized to sign an improvement agreement on behalf of the Town, with Council approval.

d. Security. Whenever the Town permits a property owner to enter into an improvement agreement, it shall require the owner to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the Town, a letter of credit or other security acceptable to the Mayor/Town Administrator and the Town Attorney, as security for the promises contained in the

improvement agreement. In addition to all other security, for completion of those public improvements where the Town participates in the cost, the owner shall provide a performance bond from the contractor, with the Town as a co-obligee. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the Town of Bartonville and the Town Attorney.

e. Letter of Credit.If the Town of Bartonville authorizes the property owner to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

1. Be irrevocable;

2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years; and

3. Require only that the Town present the issuer with a sight draft and a certificate signed by two (2) authorized representative(s) of the Town certifying to the Town's right to draw funds under the letter of credit.

f. As portions of the public improvements are completed in accordance with the EDS and the approved engineering plans, the developer may make application to the Town of Bartonville to reduce the amount of the original letter of credit. If the Town of Bartonville is satisfied that such portion of the improvements has been completed in accordance with Town standards, he may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.

g. Upon the dedication of and acceptance by the Town of all required public improvements, the Town shall authorize a reduction in the security to 10% of the original amount of the security if the property owner is not in breach of the improvement agreement. The remaining security shall be security for the owner's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for two (2) years thereafter. If the required security for maintenance and warranty is otherwise provided by the contractors or by others, the Town will release the entire amount of the developer's security.

(Ordinance 336-03 adopted 11/18/03)

§ 6.3. Temporary Improvements.

~~6.3~~ The property owner shall build and pay for all costs of temporary improvements required by the Town, and shall maintain those temporary improvements for the period specified by the Town. Prior to construction of any temporary facility or improvement, the owner shall file with the Town a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

(Ordinance 336-03 adopted 11/18/03)

§ 6.4. Government Units.

~~6.4~~ Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this Section.

(Ordinance 336-03 adopted 11/18/03)

§ 6.5. Failure to Complete Improvements.

a. For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the Town, the ~~land study and~~ preliminary plat approval~~s~~ shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the Town may:

1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

2. Suspend final plat approval/filing until the public improvements are completed, and may record a document to that effect for the purpose of public notice;

3. Obtain funds under the security and complete the public improvements itself or through a third party;

4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property;

5. Exercise any other rights available under the law.

(Ordinance 336-03 adopted 11/18/03)

§ 6.6. Acceptance of Dedication Offers.

~~6.6~~ Acceptance of formal offers for the dedication of streets, public areas and/or easements shall be by authorization of the Town of Bartonville. The approval by the Town of any type of plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the Town of any street, public area, easement or park shown on the plat. The Town shall require the plat to be endorsed with appropriate notes to this effect.

(Ordinance 336-03 adopted 11/18/03)

§ 6.7. Maintenance and Guarantee of Public Improvements.

~~6.7~~ The owner shall maintain all required public improvements for a period of two (2) years following acceptance of the subdivision by the Town, and shall also provide a warranty that all public improvements will be free from defects for a period of two (2) years following such acceptance by the Town.

(Ordinance 336-03 adopted 11/18/03)

§ 6.8. Construction Procedures.

a. A permit is required from the Town of Bartonville prior to beginning any work in the Town or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a floodplain.

b. Preconstruction Conference.The Town Engineer shall require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing and/or removal of vegetation and trees that are larger equal to larger than six inches (6") in diameter as measured four feet (4') above the ground.

c. Conditions Prior to Authorization.Prior to authorizing release of a grading permit, the Town Engineer shall be satisfied that the following conditions have been met:

1. The final plat has been approved by the Planning and Zoning Commission and by Town Council (and any conditions of such approval have been satisfied);

2. All required construction documents are completed and approved by the Town Engineer;

3. All necessary off-site easements and/or dedications required for Town-maintained facilities and not shown on the plat must be conveyed solely to the Town (i.e., by separate instrument), with the proper signatures affixed. The original of the documents and the appropriate filing fees (per Appendix ~~B~~ A (Fee Schedule) and the Town's submission guidelines, as either one may be amended from time to time) shall be returned to the Town Engineer prior to approval and release of the engineering plans;

~~**Editor's note**~~ ~~Appendix B is not printed herein.~~

4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the Town Engineer (at least one set of these plans shall remain on the job site at all times);

5. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the Town Engineer; and

6. All applicable fees must be paid to the Town.

d. Temporary Asphalt or Concrete Batching Plants.A temporary asphalt or concrete batching plant permit may be approved, upon application, by the Town Engineer, subject to the conditions of this section. Any exceptions to the following conditions shall require approval of the Town Council:

1. The batching plant site shall comply with all applicable provisions of local, state and federal laws.

2. The batch plant shall not be located within 600 feet of an inhabited residence.

3. Hours of operation will be limited to Monday through Friday 7:00 a.m. to 7:00 p.m. Aggregate trucks shall be prohibited from hauling to or from the site on Saturday or Sunday.

4. The batch plant permit shall be valid for up to a ninety-day period.

5. No portion of the batch plant or its operation shall be located on a public or private street, or on land dedicated to the Town for parks and open space.

6. The batch plant shall only furnish concrete, asphalt, or both, to the specific project for which the temporary permit is issued. The placement of a temporary batching plant for a private project is restricted to the site of the project.

7. The temporary plant shall be operated in a manner that eliminates unnecessary dust, noise and odor (as illustrated by, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust).

8. The site must be clear of all equipment, material and debris upon completion of the project.

9. Operator shall provide a road maintenance bond in the amount of $50,000, payable to the Town of Bartonville for repair of all public improvements damaged during the operation of the temporary batching plant. The permittee shall repair or replace any damaged public improvements within thirty days of completion of the project. In the event repairs exceed the amount of the bond, the permittee shall make such repairs or remit the actual cost for repairs to the Town of Bartonville.

10. Upon expiration of the temporary permit and cessation of activities, the Town Engineer and permittee shall walk the site to verify compliance with these special conditions.

11. An application for a temporary batch plant permit shall be made on an application form provided by the Town and shall be accompanied by a location map, a copy of the thirty-day notice to the Texas Commission on Environmental Quality (TCEQ), road maintenance bond, truck route map and the required permit fee, as provided for in the adopted Town of Bartonville Schedule of Fees.

(Ordinance 336-03 adopted 11/18/03; Ordinance 365-05 adopted 5/17/05)

§ 6.9. Inspection of Public Improvements.

a. General Procedure.Construction inspection shall be supervised by the Town Engineer. Construction shall be in accordance with the approved engineering plans and the EDS of the Town of Bartonville (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the registered professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the Town Engineer. If the Town Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the Town's standards and EDS, then the property owner shall be responsible for completing and/or correcting the deficiencies such that they are brought into conformance with the applicable standards.

b. Certificate of Satisfactory Completion.The Town will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the Town Engineer, through submission of detailed sealed "as-built," or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the Town Engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of

sealed record drawings of the paving, drainage, water, sanitary sewer and/or other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with construction plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature/seal of the registered professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the Town with a copy of the final plat and the engineering plans, if prepared on a CADD system, in such a digital format (i.e., on disk) that is compatible with the Town's CADD system.

When such requirements have been met, the Town Engineer shall thereafter make a recommendation to the Town Council to accept the public improvements for dedication in accordance with the established procedure.

Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the Town for use and maintenance. The Town Council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the Town Council. If the remaining public improvements are greater than $10,000.00 and are not completed within the determined length of time, the Town will impose a ten percent (10%) penalty of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than $10,000.00, the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the Town.

Upon acceptance of the required public improvements, the Town Engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

(Ordinance 336-03 adopted 11/18/03)

§ 6.10. Deferral of Required Improvements.

a. The Town Council may, upon petition of the property owner and favorable recommendation of the Town Engineer, defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

b. Whenever a petition to defer the construction of any public improvements required under this Ordinance is granted by the Town Council, the property owner shall deposit in escrow his share of the costs (in accordance with Town participation and oversizing policies) of the future public improvements with the Town prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the Town.

(Ordinance 336-03 adopted 11/18/03)

§ 6.11. Issuance of Building Permits and Certificates of Occupancy.

a. No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a final plat approved by the Town of Bartonville, and unless all public improvements, as required by this Ordinance for final plat approval, have been completed.

b. No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the Town and recorded at the County.

(Ordinance 336-03 adopted 11/18/03)

Part VII
FILING FEES & PLAT SUBMISSION REQUIREMENTS

§ 7.1. Schedule of Fees and Submission Requirements.

Fees and charges (as well as other submission requirements) for the filing of applications for the approval of land studies, any type of plat, plat vacations shall be maintained in the Town's Schedule of Fees, and may be amended from time to time. It is the developer's responsibility to obtain and comply with the Town's current fee schedule and submission requirements.

Such fees and charges shall be imposed and collected on all applications for approval of ~~a land study,~~ any type of plat or~~, and a~~ plat vacation, regardless of the action taken by the Town Planning and Zoning Commission and Town Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering and inspection services necessary to properly review and investigate plats and subdivision construction. Should a ~~land study or~~ plat application be denied by the Town (i.e., Planning and Zoning Commission and/or Town Council), then that application ceases "pending" status - any reapplication for ~~land study or~~ plat approval for that property must be accompanied by a new filing fee.

All required fees (i.e., applicable fees, taxes, street signs, etc.), unless specifically stated otherwise herein, shall be paid as required in other sections of this Ordinance. Inspection fees may be paid at the time the actual inspection is made of the project.

(Ordinance 336-03 adopted 11/18/03)

Part VIII
ADOPTION

§ 8.1. Adoption of Ordinance.

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

(Ordinance 336-03 adopted 11/18/03)

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ZONING ORDINANCE

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DIVISION I GENERAL REQUIREMENTS

CHAPTER 1
GENERAL PROVISIONS

§ 1.1. TITLE.

This ordinance including appendices A, B, C and D, shall be known as and may be cited and referred to as the "Comprehensive Zoning Ordinance" to the same effect.
(Ordinance 361-05 adopted 3/22/05)

§ 1.2. PURPOSES AND AUTHORITY.

The zoning regulations herein established have been made in accordance with the adopted Comprehensive Plan, as amended, ("Comprehensive Plan"), for the purpose of promoting the health, safety, comfort, convenience, morals and general welfare of the Town. They have been designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable considerations among other things, of the character of the district and its peculiar suitability for the particular uses and with a view of conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.
(Ordinance 361-05 adopted 3/22/05)

§ 1.3. APPLICABILITY.

A. This ordinance supersedes prior zoning regulations in its entirety. The provisions of these regulations including all appendices shall apply to all land, property and development in the Town of Bartonville, except as expressly and specifically provided otherwise in this Ordinance. No development shall be undertaken without prior authorization pursuant to these regulations.

B. All land and property owned by the Town of Bartonville shall be expressly exempt from these regulations.

(Ordinance 361-05 adopted 3/22/05; Ordinance 382-06 adopted 2/21/06)

§ 1.4. CONSISTENCY WITH COMPREHENSIVE PLAN.

A. These zoning regulations and the zoning map adopted herewith are intended to implement the goals and policies of the Town of Bartonville Comprehensive Plan and are hereby deemed to be consistent with and in accordance with the adopted Comprehensive Plan for the Town. Any amendments to such regulations and all applications for a change to the zoning map shall be consistent with the Comprehensive Plan, as may be amended from time to time.

B. An amendment to the text of the zoning ordinance is consistent with and in accordance with the Comprehensive Plan if it complies with the goals and policies stated in the plan, as may be amended from time to time. An amendment to the zoning map is consistent with the Comprehensive Plan if the map amendment is consistent with the land use diagram contained in the plan, as may be amended from time to time.

(Ordinance 361-05 adopted 3/22/05)

§ 1.5. COORDINATION WITH OTHER REGULATIONS.

It is the intent of the Town of Bartonville that these zoning regulations be applied in a manner consistent with other regulations governing the use and development of land, including but not limited to subdivision regulations, floodplain regulations and other applicable Town regulations. Applications for permits required by other development regulations may be submitted simultaneously with applications for permits required by the zoning regulations wherever feasible, or as may be otherwise directed by these regulations.
(Ordinance 361-05 adopted 3/22/05)

§ 1.6. DEVELOPMENT UNDER PRIOR REGULATIONS.

The following types of development applications are exempt from the requirements of this Zoning Ordinance, except as otherwise stated expressly herein. Exempt applications shall be processed and decided under zoning regulations in effect immediately preceding the effective date of these zoning regulations and such regulations shall be kept in effect for such purpose.

A. Residential development applications for land subject to a final plat that was approved prior to the effective date of this ordinance, or that was filed prior to such date and is subsequently approved.

B. Development applications for land subject to a site plan that was approved pursuant to Chapter 3 of this Ordinance, as amended, prior to the effective date of this ordinance, or that was filed prior to such date and is subsequently approved.

C. Any request for an amendment of an approved preliminary plat or site plan otherwise exempted under this section shall be considered a new application and all requirements of this zoning ordinance shall be applicable to such request.

D. For purposes of design review, any exemption conferred by Appendix A, Section A.4 of this ordinance.

(Ordinance 361-05 adopted 3/22/05)

§ 1.7. INTERPRETATION/SEPARABILITY.

A. It is the intent of the Town of Bartonville to adopt these entire zoning regulations as a legal unit as a part of the Comprehensive Plan for the Town. Any words which appear to be precatory in nature are to be interpreted as though they were positive and conclusive.

B. Should any section, subsection, paragraph, sentence, clause, or phrase of these regulations be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of these regulations.

(Ordinance 361-05 adopted 3/22/05)

§ 1.8. DESIGN CRITERIA.

A. The Town Council may from time to time establish by resolution design criteria, which are intended to facilitate administration of these zoning regulations. Such guidelines shall serve as illustrations of methods and techniques of implementing standards contained in the zoning regulations, but shall not be the exclusive means of achieving such standards. In the event of any conflict between a standard contained in the zoning regulations and a design guideline, the standard in the zoning ordinance shall control.

(Ordinance 361-05 adopted 3/22/05)

§ 1.9. EFFECT OF ORDINANCE.

A. Preserving Rights in Pending Litigation and Violations Under Existing Ordinances

1. By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless specifically 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, incurred prior to the time the prior Zoning Ordinance was repealed or superseded and the present Zoning Ordinance adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded within all respects as if such prior Ordinance had not been repealed or superseded.

(Ordinance 361-05 adopted 3/22/05)

§ 1.10. EFFECT OF INTERPRETATION.

A. The provisions of this Ordinance and all appendices shall be held to ~~[~~be~~]~~ the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this Ordinance shall govern.

(Ordinance 361-05 adopted 3/22/05)

§ 1.11. NONCONFORMING USES AND STRUCTURES.

A. Intent of Provisions:

1. Within the districts established by this Ordinance or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this Ordinance was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this Ordinance to permit such nonconforming uses to continue, as long as the conditions within this Section and other applicable sections of the Ordinance are met, except as otherwise provided in this Section (Also see Appendix A, Section A.3 for applicable variance procedures).

2. It is further the intent of this Ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district, except as otherwise provided in this Section.

3. Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

B. Nonconforming Status:

1. Any use, platted lot or structure which does not conform with the regulations of this Zoning Ordinance on the effective date hereof or any amendment hereto, except as

expressly provided in Subsection 3. below, shall be deemed a nonconforming use, platted lot or structure provided that:

a. Such use, platted lot or structure was in existence under and in compliance with the provisions of the immediately prior zoning ordinance; or

b. Such use, platted lot or structure was a lawful, nonconforming use, platted lot or structure under the immediately prior zoning ordinance; or

c. Such use, platted lot or structure was in existence at the time of annexation into the Town, was a legal use of the land at such time, and has been in regular and continuous use since such time.

2. Any other use, platted lot or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this Ordinance or any amendment hereto, and except as provided in Subsection 3. below, shall be deemed to be in violation of this Ordinance, and the Town shall be entitled to enforce fully the terms of this Ordinance with respect to such use, platted lot or structure.

3. The following types of platted lots shall be deemed conforming lots as lots of record, notwithstanding the fact that such lots do not meet the standards of this Ordinance in the zoning district in which they are located:

a. Any vacant lot that conformed to the Town's zoning district regulations at the time that it was platted; or

b. Any lot occupied by a single-family dwelling authorized under the zoning district regulations in which the lot is located.

4. A lot of record that is nonconforming may be occupied by a single-family dwelling provided that the zoning district in which the lot of record is located allows a single-family land use.

C. Continuing Lawful Use of Land and Structures:

1. A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

2. A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

D. Abandonment of Nonconforming Uses and Structures, and Cessation of Use of Structure or Land:

1. If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this Ordinance, as amended, and with any other applicable Town codes or ordinances that are in effect at the time the use is resumed or the structure is re-occupied.

2. A nonconforming use or structure shall be deemed "abandoned" in the following circumstances:

a. The use ceases to operate for a continuous period of six (6) months (i.e., 180 calendar days);

b. The structure remains vacant for a continuous period of six (6) months (i.e., 180 calendar days); or

c. In the case of a temporary use, the use is moved from the premises for any length of time.

3. If the use of any lot, tract or property that does not have a building on it and that is used for open/outside storage as of the effective date of this Ordinance (or amendment thereto) is made nonconforming by this Ordinance (or amendment thereto), then such storage use shall cease within six (6) months (i.e., 180 calendar days) following the effective date of this Ordinance (or amendment thereto). The lot, tract or property shall be cleaned up and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners.

E. Changing Nonconforming Uses:

1. A nonconforming use shall not be changed to another nonconforming use.

2. A nonconforming use may be changed to a conforming use provided that, once such change is made, the use shall not be changed back to a nonconforming use.

3. A conforming use located in a nonconforming structure may be changed to another conforming use, but shall not be changed to a nonconforming use.

F. Expansion of Nonconforming Uses and Structures:

1. A nonconforming use may be extended throughout the structure in which it is located, provided that:

a. The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use;

b. No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

c. The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.

2. A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

3. A nonconforming use or structure shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide additional off-street parking or loading areas required by this Ordinance.

G. Reconstruction or Repair of Nonconforming Structure:

1. If more than fifty percent (50%) of the total appraised value, as determined by the Denton Central Appraisal District, of a nonconforming structure is destroyed by fire, the elements,

or some other cause, then the structure may be rebuilt only in conformity with the standards of this Ordinance.

2. If less than fifty percent (50%) of the total appraised value, as determined by the Denton Central Appraisal District, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be reconstructed as it was before the partial destruction but only to its original dimensions and floor area, and provided that such reconstruction is completed within one (1) year (i.e., 365 calendar days) following the event that caused the partial destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the one-year reconstruction period may be extended by the Town Secretary (or his/her designee).

3. If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use at the time of such destruction, then the nonconforming use may be re-established subject to the limitations on expansion set forth in Subsection F. above.

4. Any conforming structure that is totally or partially destroyed shall be reconstructed only in conformity with the standards of this Ordinance.

5. Nothing in this Ordinance shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or nonconforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds fifty percent (50%) of the structure's appraised value, as determined by the Denton Central Appraisal District.

H. Moving of Nonconforming Structure:

1. No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated. Such building relocation shall also require any permits required by the Town, and may also require platting of the intended building site pursuant to the Town's Development Ordinance as well as concept plan, site plan or building permit plan approval as required by this Zoning Ordinance.

I. Nonconforming Lots:

1. In any district in which single-family dwellings are permitted, a single-family residence may be erected on any single lot of record which existed as of May 10, 1983. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, or dimensions, provided, however, that the requirements of the district for minimum yard setbacks shall be met unless a variance to said requirements has been granted by the Board of Adjustment.

2. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and part, or all of said lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the lots shall be considered for the purpose of this Ordinance to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

J. Right to Proceed Reserved:

1. Nothing contained in this Section ~~1.23 [~~1.11~~]~~ is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to Texas Local Government Code Section 43.002, or Sections 245.001 to 245.006, Also See Appendix A, Section A.4.

(Ordinance 361-05 adopted 3/22/05; Ordinance 527-12, sec. 1, adopted 1/17/12)

§ 1.12. PAYMENT OF ALL INDEBTEDNESS ATTRIBUTABLE TO THE SUBJECT PROPERTY.

A. No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the Town of Bartonville, and which are directly attributable to a piece of property shall be allowed to submit any application for any type of zoning change or plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the Town of Bartonville shall have been first fully discharged by payment, or until an arrangement, satisfactory to the Town, has been made for the payment of such debts or obligations or if written documentation from the Denton Central Appraisal District is provided indicating the property valuation is under review or in dispute. It shall be the applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements satisfactory to the Town have been made for payment of said taxes, fees, etc.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 2
DEFINITIONS

§ 2.1. ~~[~~WORD USAGE.~~]~~

Certain words in this ordinance are defined for the purpose hereof as follows:

Words in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; the word "shall" is mandatory and directive. For definitions that are not specified the latest edition of Webster's Dictionary shall be used.

(Ordinance 361-05 adopted 3/22/05)

§ 2.2. DEFINITIONS.

(1) Accessory Buildings, Residential. In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business. The building area is less than that of the main structure as regulated herein. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse as a hobby, home workshop, children's playhouse, barns, storage building or garden shelter.

(2) Accessory Building, Nonresidential. In the nonresidential districts, a subordinate building to the main building that does not exceed the height of the main building and does not exceed fifty percent (50%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main use. For purposes of this definition, a tent is not considered an accessory building.

(3) Accessory Dwelling. A secondary living space that is on-site with a primary living space and that may be continued within the ~~space [~~same~~]~~ structure as the primary, or may be contained in a separate structure. Occupants of secondary living spaces typically include a caretaker, servant, or farm worker employed by the owner/occupant, or a family member of the owner/occupant.

(4) Accessory Use. A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

(5) Adjacent. Touching, adjoining, contiguous or abutting.

(6) Advertising. Any promotion of commodities or services whether on-site or off-site. Prices and specials are considered as advertisement. Display of gasoline prices and telephone numbers shall not be considered as advertisement, but as a disclosure for public information.

(7) Agriculture. The production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program, but does not include concentrated animal or poultry feeding or breeding operations. All agricultural uses which include animals shall be maintained in compliance with the applicable rules and regulations of the Town of Bartonville, including prohibitions therein.

(7A) Agricultural Store. An establishment for the selling of corn, grain and other foodstuffs for animals and livestock, and other goods related to agricultural processes.

(8) Alcohol Beverages, Retail Sales. (See Section 109 of the Texas Alcoholic Beverage Code.)

(9) Alcohol Beverages, Wholesale. (See Section 109 of the Texas Alcoholic Beverage Code.)

(10) Ambulance Service. Provision of private emergency transportation which may include mobile medical care, and which may include storage and maintenance of vehicles.

(11) Animal Farm. (See Farms, General)

(11A) Animal-Assisted Therapy. An outdoor business or nonresidential use of animal-assisted relaxation techniques and animal-assisted mental and/or physical therapy techniques using instructors or therapists.

(12) Antennas. (See Chapter 22)

(13) Antique Store. An establishment offering for sale, within a building, articles such as glass, china, furniture or similar furnishings and decorations that have value and significance as a result of age, design or sentiment.

(14) Auto Body Repair and Service, Major. Major repair, rebuilding, or reconditioning of engines or transmissions for motor vehicles; wrecker service with vehicle storage; collision services including body, frame or fender straightening or repair; customizing; overall painting or paint shop; those uses listed under “automobile repair, minor”; and other similar uses.

(15) Auto Body Repair and Service, Minor. Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter

changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; mufflers; automobile washing, steam cleaning, and polishing; performing state inspections and making minor repairs necessary to pass said inspection; servicing of air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "automobile repair, major" or any other similar use.

(16) Auto Parts Store, Retail. The use of any building or other premises for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

(17) Automobile. A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including but not limited to the following - passenger cars, trucks, buses, motor scooters and motorcycles.

(18) Bakery, Retail. A place for preparing, baking and selling all products on the premises where prepared.

(19) Banks and Financial Institutions. An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds.

(20) Barber and Beauty Shop. An establishment primarily engaged in providing services generally involved in the care of the person including, but not limited to, barber and beauty shops, tanning salons, ear piercing shops, permanent makeup, and reducing salons.

(21) Base Density. The density specified for the base district for residential developments other than planned residential developments.

(22) Base District or Base Zoning District. The underlying residential or nonresidential zoning district with which a Planned Development District or Conditional Use Permit may be combined.

(23) Basement. A story wholly or partly (at least 50 percent) measured from floor to ceiling, below the level of the ground on the street side of the building. A basement or cellar is not counted when measuring the height of a building.

(24) Bed and Breakfast. A dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in not more than five (5) rooms or unattached units (e.g., cabins) for transient guests for compensation.

(25) Berm. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

(26) Block. An area within the Town enclosed by streets and occupied by or intended for buildings; or, if said work is used as a term of measurement, it shall mean the distance along a side or street between the nearest two streets which intersect said street on said side.

(27) Board. The word "Board" shall mean the ~~Zoning~~ Board of Adjustment.

(28) Breezeway. A covered passage one (1) story in height connecting a main structure and an accessory building.

(29) Buffer or Bufferyard. A strip of land, identified on a concept plan, site plan, development plan, established to protect one type of land use from another land use which is incompatible. Normally, a buffer is landscaped and kept in open space uses. ~~(Also termed Bufferyard)~~

(30) Building. Any structure or building for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind.

(31) Building Line. Any line parallel or approximately parallel to the street line and beyond which buildings may be erected.

(32) Building Official. The officer or other designated authority charged with the administration and enforcement of this Ordinance.

(33) Business. Includes retail, commercial and manufacturing uses and districts as herein defined.

(34) Caliper. The diameter of a tree measured 48 inches above natural grade level.

(35) Caretaker's Quarters. Accessory dwelling facilities located on a premises for the housing of persons and their families who are employed on the premises as guards, caretakers or in similar custodial capacity.

(36) Carport. A structure open on a minimum of 3 sides designed or used to shelter not more than 3 vehicles and not to exceed 24 feet on its longest dimension.

(37) Caterer. A business that provides food and beverages for off-site consumption.

(38) Cellar. See basement.

(39) Certificate of Occupancy. An official certificate issued by the Town through the Chief Building Official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.

(40) Church[,] rectory, or temple. A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises (tax exempt as defined by state law). For the purposes of this ordinance, bible study and other similar activities which occur in a person's primary residence shall not apply to this definition.

(41) Cleaners. Means a custom cleaning, laundry or pressing shop with a pickup station where work is performed on-site utilizing a non-chemical process for cleaning or laundry.

(42) Clinic, Medical. The office of one or more medical doctors, dentists, optometrists, or similar members of the medical professions who may or may not have associated in the practice of their professions.

(43) Commercial Amusement. Establishments engaged in providing entertainment for a fee or to members and guests of a private association and including but not limited to such activities as dance halls; theatrical productions; bands, orchestras, and other musical entertainment; billiard and pool establishments; commercial facilities such as bowling alleys and skating rinks; coin-operated devices; amusement parks; amusement and bathing beaches; swimming pools; game parlors; dirt bike tracks; "paint ball" facilities and teen clubs.

(44) Commission. The Planning and Zoning Commission of the Town of Bartonville, also referred to as "Town Planning Commission," "Plan Commission," or "Zoning Commission."

(45) Community Home. A community-based residential home providing 24-hour care in a protected living arrangement for not more than six (6) residents with physical or mental disabilities and two (2) supervisors pursuant to Tex. Human Resources Code Ann. § 123.001 et seq. This

classification is limited to homes for the care of persons suffering from orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism, or emotional illness.

(46) Comprehensive Plan. The planning document described in Chapter ~~211~~ 213 of the Texas Local Government Code.

(47) Conditional Use. Use by permit in a zoning district which specifies certain conditions under which the permit may be issued upon application and approval.

(47a) Contractors' yards. Yards with outdoor storage of equipment and material used by contractors.

(48) Convenience Store. A retail establishment, occupying less than 5,000 square feet of floor area, primarily offering for sale meats, fruits, vegetables, bakery products, dairy products, personal care items, cleaning products and similar household items to a localized or neighborhood market, for primarily off-premises consumption. May or may not include gasoline sales.

(49) Copy and/or Print Shop. An establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization and occupies less than 4,000 square feet. A printing company shall be any printing business which operates in a space of 4,000 square feet or larger.

(50) Council. The Town Council of the Town of Bartonville, also referred to as "Town Council."

(51) Corner Lot. A lot which has at least 2 adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such 2 sides is less than 135 degrees.

(52) Court. An open, unoccupied space bounded on more than two sides by the walls of the building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard, or other permanently open space.

(53) Coverage. The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

(54) Crematorium.(See Funeral Home)

(55) Dairies. A wholesale business that processes milk for human consumption.

(56) Day Camp. A facility arranged and conducted for the organized recreation and instruction of children, including outdoor activities, on a daytime basis only.

(57) Day Care Center. An establishment licensed by the state that provides care, protection and supervision for seven or more children or adults for periods of less than 24 hours per day on a regular basis for a fee or other compensation, excluding any establishment classified as a day care home. This classification shall not include overnight lodging, medical treatment, counseling, and/or rehabilitative services and does not apply to any public school.

(58) Day ~~care~~ Care ~~home~~Home. An establishment registered with the state that provides care, protection and supervision in the caretaker's single-family detached residence for not more than six children under 14 years of age, including the caretaker's own children, and that provides care after school for not more than three additional elementary school children, provided that the total number of children cared for, including the caretaker's own children, does not exceed nine. Day Care Homes shall comply with health and safety standards set forth by the Texas Health

and Human Services Commission. This classification shall not include overnight lodging, medical treatment, counseling and/or rehabilitative services and does not apply to any school.

(59) Density. The number of dwelling units per gross usable acre of land.

(60) Depth of Rear Yard. The mean horizontal distance between the rear line of the building other than accessory buildings and the rear lot line.

(61) Depth of Lot. The mean horizontal distance between the front and rear lot lines.

(62) Dog Kennel. See Kennel.

(62a) Drive-Through. A facility or feature in which one can drive to be served, without leaving one's car, only for use with a coffee shop, dry cleaning store, pharmacy or ATM/bank.

(63) Dwelling, Single-Family. A detached building containing not more than one (1) dwelling unit entirely surrounded by open space on the same lot.

(64) Dwelling. Any building or portion thereof other than a mobile home or manufactured home providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, and cooking.

(65) District. A section of the Town for which the regulations governing the area, height or use of the building are uniform.

(66) Double Frontage Lot. A lot having a frontage on 2 nonintersecting streets, as distinguished from a corner lot.

(67) Easement. A privilege or right of use or enjoyment granted on, above, under or across a particular tract of land by one owner to another.

(68) Electrical Repairing. A business that repairs household and business appliances and computers.

(69) Equestrian Center. A building, land or facilities regularly used for equestrian activities, including but not limited to the boarding, schooling, training, hiring, selling, showing, competing or exhibition of horses or ponies.

(69a) Event Venue/Banquet Hall. A facility, or portion thereof, which is rented, leased, or otherwise made available to any person or group for a private event function, that is not open to the general public, whether or not a fee is charged.

(70) Exterminating Company, Retail. A business that provides pest and rodent control to homes or business.

(71) Family. Consists of one or more persons, each related to the other by blood, marriage, or adoption; or a group of not more than four persons (excluding servants) who are living together in a dwelling unit.

(72) Family Home. See Day Care Home.

(72a) Farmers' Market. A designated location within the jurisdiction of the Town used primarily for the distribution and sale directly to consumers of food by farmers or other producers.

(73) Farms, General - Crops. An area or orchard used for growing usual farm products, vegetables, fruits, trees, and grain and including the necessary accessory uses for raising, treating, and

storing products grown on the premises, but not including any type of agriculture specifically prohibited by ordinance or law.

(74) Farms, General - Livestock/Ranch. An area used for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.

(75) Feed Lot. A business that operates a concentrated animal feeding operation as defined in State statutes.

(76) Fire Chief. Means the Fire ~~Marshal of Denton County or the Fire~~ Chief of Denton County Emergency Services District (ESD) 1, or their designee~~(or designee by the Town) of the Argyle Volunteer Fire District~~.

(77) Fire Station, Police Station or Municipal Building. Any public service building of the municipal government including a library or Town Municipal Building, but excluding storage yards, utility shops and equipment centers.

(78) Fix-It Shops. A business that repairs lawnmowers and other small engine powered equipment. No outside storage is permitted.

(79) Flood Fringe. That area in the floodplain which is not the floodway.

(80) Floodplain. Any land susceptible to being inundated by water from any source.

(81) Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(82) Florist, Retail. An establishment primarily engaged in the retail sale of cut flowers and flowering plants.

(83) Floor Area. The total enclosed area of all floors in a building with a clear height of more than six
(6) feet, measured to the outside surface of the exterior walls. Parking facilities, driveways, breezeways, carports, residential garages, and airspace above the atria ground floor are excluded from floor area calculations. Enclosed loading berths and off-street maneuvering area are also excluded, but not the dock area itself.

(84) Floor Area Ratio (FAR). The total floor area of a main building or buildings on a lot, divided by the lot area.

(85) Front Lot Line. The ~~narrower~~ side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall designate which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line, and lies along the same general orientation as the front and rear lot lines, said lines shall be considered a front lot line in establishing minimum setback lines. If any alley exists on a corner lot, the front yard shall be opposite the alley (a side yard may not be designated adjacent to any alley).

(86) Front Yard. An open, unoccupied space on a lot facing a street upon which the structure shall face and extending across the front of the lot between the side yard lines and being the minimum

horizontal distance between the street line and main building or any projection thereof other than the projection of the usual steps or eave overhang.

(87) Funeral Home or Mortuary. A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

(88) Furniture Store, Retail. Retail stores selling new goods for furnishing the home including, but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

(~~88a~~89) Garage Dwelling. See Accessory Dwelling.~~[1]~~

(90) Golf Course. An area of 20 acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

(91) Government Building. Any building (except a building used primarily for general office purposes) which is owned, leased, primarily used and/or primarily occupied by the State of Texas, the United States, the Town of Bartonville, or any subdivision or agency of the State of Texas, the United States or the Town of Bartonville.

(92) Grade. For buildings having walls adjoining one street only, it is the elevation of the sidewalk at the center of the wall adjoining the street; for buildings having walls adjoining more than one street, it is the average of the elevation of the sidewalks at the center of all walls adjoining the street; for buildings having no wall adjoining the street, it is the average level of the finished surface of the ground adjacent to the exterior walls of the building; any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street. Where no sidewalk has been constructed, the Town Engineer shall establish such sidewalk level or its equivalent for the purpose of these regulations.

a. ~~**Editor's note—Renumbered for sequence.**~~

(93) Grocery Store, Retail. A retail establishment with 5,000 square feet of area or more primarily offering for sale meats, fruits, vegetables, bakery products, dairy products, personal care items, cleaning products and similar household items for off-premise consumption.

(94) Gross Usable Acres. The number of acres of land in a development site computed by subtracting from the total number of acres the number of acres occupied by (1) floodway, (2) 75% of any land area encumbered by a reservation of record, restricting all or a portion of the property from development, or encumbered as a power line easement, and (3) any other form of unusable open space.

(95) Group Day Care Home. ~~(~~See Day Care Home.~~)~~.

(96) Group Home. A family-based facility providing 24-hour care in a protected living arrangement. This classification includes homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons over sixty (60) years of age or older, maternity homes, foster homes, homes for juvenile delinquents, and halfway houses.

(97) Hardware Store, Retail. An establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builder's hardware, paint and glass, housewares and household appliances, and cutlery.

(98) Health or Sports Club. A commercial establishment having members who pay a fee to use its health and fitness facilities and equipment and/or to participate in organized or unstructured sports activities.

(99) Heavy Load Vehicle. Any commercial medium- or heavy-duty on-highway vehicle or a work truck. Heavy Load Vehicles include heavy-duty pickup trucks and vans; heavy-duty vocational vehicles; truck tractors with a GVWR above 26,000 pounds; and heavy-duty trailers.

(100) Height. The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher or, if no street grade has been established, to the highest point of the roof's surface if a flat surface; to the deck line of mansard roofs; and the mean height level between eaves and ridge for hip and gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four (4) feet in height.

(101) Hobby Shop. An accessory use housed in a dwelling or in an accessory building in which the residents of the premises engage in recreation activities, none of which shall disturb the neighbors on either side or in the rear thereof, and from which no revenue may be derived, in which no goods may be publicly displayed, offered for sale, or advertised for sale, nor may any sign be used in connection therewith and from which no traffic will be generated.

(102) Home Occupations.
A business, occupation, or profession, other than a no-impact home-based business, conducted within a residential dwelling unit or accessory building by the resident thereof, and which shall have the following characteristics:

(1) The activity shall employ only members of the immediate family of the resident of the dwelling unit;

(2) There shall be no external evidence of the occupation detectable at any lot line, said evidence to include advertising signs or displays, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, storage of materials or equipment, or traffic or parking of vehicles in a manner evidencing the conduct of a business;

(3) Said home occupation shall not have a separate entrance for the business and shall not include appointed visits by the general public. Any business, occupation or profession conducted within a dwelling unit and which does not meet the aforesaid characteristics shall be construed to be a commercial activity and shall therefore be cause for the Town~~city~~ to order a cease to all such activity within said dwelling unit.

(~~101a~~103) Home Workshop. See Hobby Shop.[2]

(~~101b~~104) Hospital. A legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.[3]

(~~101c~~105) Hotel or Motel. A building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without meals, in which the rooms are usually occupied singularly for hire, and in which there are six (6) or more sleeping rooms.

(106) In-Law Quarters. See Accessory Dwelling.

(107) Incinerator. A wholesale business which burns garbage, waste, refuse or other materials as a primary means of disposal.

(108) Interior Lot. A lot other than a corner lot.

(109) Kennel or Animal Boarding. Any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, boards and/or trains dogs and/or cats or other household domesticated animals. Veterinary hospitals shall not be considered a kennel, unless such hospitals contain pens or facilities for housing, boarding, breeding, training, harboring, or keeping dogs, cats or other domesticated animals, swine, equine, or other livestock or animals other than, or in addition to, short-term care incidental to the treatment of such animals. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the town.

(110) Key Lot. A corner lot that is so designated that the lots located directly behind it face the side street of the corner lot whether or not separated by an alley shall be considered a key lots.

(111) Large Animal Breeding. Any operation which boards~~,~~ ~~[or]~~ provides stalls or pens for the purpose of breeding large animals such as horses, mules or cattle.

(~~107a~~112) Light Manufacturing. Industrial operations relying on the assembly of products using parts previously developed from raw material and not classified as a point source of objectionable pollutants.

(113) Living Area. That portion of the dwelling unit utilized for living purposes within the exterior walls of the structure and does not include porches, breezeways, garages and carports.

(114) Loading Dock. The elevated portion of a building designed to accommodate the loading and unloading of semi-tractor/trailers.

(115) Lot. Land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or officially approved place.

(116) Lot Area. The area of the lot shall be the horizontal area of the lot as measured between lot lines, not including portions of streets.

(117) Lot Coverage. The area of a parcel or lot covered by main buildings (including overhangs) and accessory buildings. Parking areas and others such as sidewalks are not counted in the calculation of lot coverage.

(118) Lot Depth. The average horizontal distance between the front and rear lot lines.

(119) Lot Lines. The lines bounding a lot as defined herein.

(120) Lot of Record. Any lot which has been recorded in the deed record of Denton County lawfully created prior to the effective date of these revised zoning regulations shall be deemed a "lot of record."

(121) Lot Width. The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line which is closest to the front lot line.

(122) Main Building. The building or buildings on a lot which are occupied by the primary use.

(123) Manufactured Ho~~using~~me~~ or Modular Home~~. means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include any self-propelled recreational vehicle.~~A structure or building module as defined, under the jurisdiction and control of the Texas Department of Labor and Standards and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Article 5221f V.T.C.S.); nor does it include building modules incorporating concrete or masonry as the primary structural component.~~

(124) Manufacturing. An establishment engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, excluding processes utilizing hazardous materials as defined by the International Fire Code, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

(125) Meat/Seafood Market. A retail business that sells meat, seafood and/or poultry that which has been processed. No on-site slaughtering occurs.

(126) Mini-warehouse. A building or group of buildings containing one or more individual compartmentalized storage units for inside storage of customer's goods or wares, where no unit exceeds 500 square feet in floor area. No outside storage, storage of explosives, flammable materials, materials emitting noxious odors or other similar activities shall be allowed. ~~(~~Also termed Self-Storage Facility.~~)~~

(127) Mining. The extraction and removal from the site, or stockpiling of earth materials, including soil, sand, gravel, oil, gas, or other materials found in the earth. The excavation of earth materials for ponds or lakes, including excavations for fish farming ponds and recreational lakes, are considered mining unless otherwise expressly authorized by another provision of this code. The following are not considered mining:

a. The extraction and removal from the site, or stockpiling of earth materials incidental to an approved plat or excavation permit, incidental to construction with a building permit, or for governmental or utility construction projects such as streets, alleys, drainage, gas, electrical, water, and telephone facilities and similar projects.

b. The extraction and removal from the site, or stockpiling of earth materials incidental to construction of landscaping, retaining walls, fences, stock pond less than 300 cubic yards, and similar activities consistent with the land use allowed at the site of removal.

(128) Mobile Home. A dwelling designed to be transported on its own chassis on the highway in one or more sections by a prime mover and which is constructed with a base section so as to be independently self-supporting and not requiring a permanent foundation for year-round living.

(129) Mortuary. A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial.

(130)Motion Picture Theater, Indoor. A building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

(131)Motorcycle. Usually a two-wheeled self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this Ordinance, all-terrain vehicle motorbikes, motor scooters, mopeds, and similar vehicles are classified as motorcycles.

(132)Motor Vehicle. Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, trucks, motorcycles, and buses.

(133)Municipal Facility or Use. Any area, land, building, structure or facility which is owned, used, leased or operated by the Town of Bartonville.

~~(133)~~(134) No-Impact Home-Based Business. As defined in Texas Local Government Code § 229.902(a)(3), as amended.

~~(134)~~(135) Nonconforming Use. The use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

~~(135)~~(136) Nurseries, Retail. An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, and trees, and other materials used in indoor or outdoor planting.

~~(136)~~(137) Occupancy. The use or intended use of the land or buildings by proprietors or tenants.

~~(137)~~(138) Office, Professional and/or Administrative. A room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

~~(138)~~(139) Office and Clinic, Medical and/or Dental. See Clinic, Medical.

~~(139)~~(140) Office. A building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity.

~~(140)~~(141) Oil or Gas Well. (See Section ~~30.3~~32.2 ~~[chapter 32]~~)

~~(141)~~(142) Open Space. An outdoor or unenclosed area designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but excluding parking facilities, driveways, utility, or service areas.

~~(142)~~(143) Open Storage. See Outside Storage.

~~(143)~~(144) Orchards. See Farms, General.

~~(144)~~(145) Outside Display or Sales. Outside temporary display or finished goods that are specifically intended for retail sale.

~~(145)~~(146) Outside Storage. The permanent and/or continuous keeping, display or storing of any goods, materials, merchandise or equipment outside of any building on a lot or tract for more than 24 hours. Also referred to as open storage.

~~(146)~~(147) Paint Shop, Retail. A commercial establishment where painting services are performed.

~~(147)~~(148) Park. Any publicly owned or dedicated to a governmental unit area, parcel, site, piece of land or property for active or passive recreational use as an open space; including any environmentally sensitive area that shall be maintained in a natural condition.

~~(148)~~(149) Parking Lot. An all-weather surfaced area consisting of parking spaces, access driveways, designated fire lanes and other areas commonly used by motor vehicles.

(89) Parking Space. An area of not less than two hundred (200) square feet (measuring approximately 10 feet by 20 feet) not on a public street, surfaced with reinforced concrete, enclosed or unenclosed, together with an all-weather surfaced driveway connecting the parking space with a street permitting free ingress and egress.

~~(149)~~(150) Pawn Shop. An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales also take place of primarily used items.

~~(150)~~(151) Personal Services Shop or Custom Personal Services. Establishments less than 2,000 square feet in gross floor area, primarily engaged in providing services generally involving the care of the person or his apparel and including, but not limited to, dressmaking, shoe shining and repair, dry-cleaning and laundry pickup stations, tailor or seamstress services, and other similar types of uses, with no outside storage.

~~(151)~~(152) Pet Grooming. See Pet Shops.

~~(152)~~(153) Pet Shops, Retail. A retail establishment with no outside pens, offering small animals, fish or birds for sale as pets and where all such creatures are housed within the building. May also offer small animal pet grooming services.

~~(153)~~(154) Plat. A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the Town of Bartonville, Texas and subject to approval by the Planning and Zoning Commission and Town Council and filed in the plat records of Denton County, Texas.

~~(154)~~(155) Planned Development. A residential or nonresidential development project approved through establishment of a Planned Overlay District, which must meet the requirement of this Ordinance.

~~(155)~~(156) Premises. Land together with any buildings or structures situated thereon.

~~(156)~~(157) Primary Use. The principal or predominant use of any lot or building.

~~(157)~~(158) Principal Building.~~The~~ See Main Building.

~~(158)~~(159) Printing Shop. See Copy and Printing Shop.

~~(159)~~(160) Private Club, Type 1. See Section 109 of the Texas Alcoholic Beverage Code.

~~(160)~~(161) Private Club, Type 2. See Section 109 of the Texas Alcoholic Beverage Code.

~~(161)~~(162) Private Garage. An accessory building or portion thereof in which privately owned motor-driven vehicles are stored by occupants of the premises, not more than one (1) of which

may be a vehicle exceeding or larger than one (1) ton capacity, and which is not used as a home occupation or other business.

(~~157a~~163) Private Road. A way for providing vehicular traffic access to lots or units over a common parcel, primarily by the owners or occupants of the common parcel, and necessary service and emergency vehicles, but from which the public may be excluded and which are not maintained by a public agency.

(~~157b~~164) Public/Semi-Public. A building, structure or complex of buildings that protect the health, safety, welfare and quality of life throughout the community. These facilities are mostly provided by public, not-for-profit, state, county, and/or local governmental or quasi-governmental entities that require physical facilities to provide their respective services.

(165)Public Utility. Any of the following utilities: water distribution, sanitary sewage collection, telephone, cable television, natural gas, and/or electrical power.

(166)Rear Yard. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies, unenclosed porches, or driveways.

(167)Recreational Vehicle. A vehicular type unit designed for temporary living quarters for recreational camping or travel uses, which either has its own motor power or is mounted on or towed by another vehicle, excluding mobile homes as defined herein. This definition includes, but is not limited to, travel trailers, camping trailers, tent trailers, truck campers, motor homes and camper vans.[4]

(~~160a~~168) Rectory. See church.[5]

(169)Residence. A dwelling.

(170) Residential District. District where the primary purpose is residential use.

(171)Restaurants, Cafeterias, Cafes. An establishment where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation includes one or more of the following:

(A) A sit-down restaurant where customers, normally provided with an individual menu, are generally served in non-disposable containers by a restaurant employee at the same table or counter at which such items are consumed. This use may include takeout service, but excludes any service to a customer in a motor vehicle.

~~2. Editor's note—Renumbered for sequence.~~

~~3.~~2. ~~Editor's note—Renumbered for sequence.~~

(B) A cafeteria or cafeteria type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant building. This use may include takeout service, but excludes any service to a customer in a motor vehicle.

(C) A small specialty restaurant having floor area exclusively within a shopping center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian accessway within the center. This use may include takeout service, but excludes any service to a customer in a motor vehicle.

(~~163a~~172) Restaurant (with Drive-Through). An establishment designed and constructed to serve food for consumption on the premises, in a motor vehicle or for carry-out for off-premises consumption and which establishment may or may not have on-premises dining room or counter, and which may include a drive-through window.

(173) Retail Store or Shop. A retail establishment that does not fit the definition of any other land use classification and that does not entail any outdoor sales, service, display, storage or other activity. Typical uses include, but are not limited to, apparel and accessory stores, camera and photographic supply stores, clothing rental stores, consumer electronics stores, gift, novelty and souvenir shops, luggage and leather goods stores, jewelry stores, music stores, art galleries, book or stationery stores, candy and/or tobacco stores, drugstores, meat markets, seed stores, shoe sales and repair, sporting good sales, and video tape rental stores.

(174) Riding Academy. A business which offers equestrian riding lessons or classes, horse rental and related~~ing~~ activities.

(175) Schools, Private. A school under the sponsorship of a private agency or corporation other than a public or religious agency, having a curriculum generally equivalent to public preschool, elementary or secondary schools.

(176) Schools, Public. A school under the sponsorship of a public agency providing preschool, elementary or secondary curriculum, but not including private trade or commercial schools.

(177) Screen. A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

(178) Servant's Quarters. An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or a person or persons employed on the premises by the occupant on a full-time basis as domestic help, such as a maid, yard person, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections. Must meet the requirements of an accessory dwelling unit.

(179) Sexually Oriented Businesses. As defined in ~~Article 4.102 [~~Section 4.05.002~~]~~ of the Town Code.

(180) Shopping Center.~~shall mean a~~ A place built and intended to be used for retail shops, department stores, restaurants, travel services and allied businesses. The term shopping center also includes shopping malls. Shopping center shall not include strip malls. For the purposes of this ordinance, a strip mall shall mean a shopping center that is contained on a single plat lot and has a building or set of buildings that contain one or more shops, department stores, restaurants, office uses or businesses that have a common open or enclosed walkway and open into a common parking lot.

(181) Shrub. A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than 10 feet in height at maturity.

(182) Side Lot Line. Any lot line not the front or rear lot line.

(183) Side Yard. An open, unoccupied space on the same lot with a building situated between the building line on the lot and extending through from the front yard to the required rear yard.

~~(184) Sign.As defined in Article 3.1101 [Section 3.04.002] of the Town Code.~~

(184)~~Site~~ Sight Barring Fence. A structure which blocks the view from the ground to the height specified and serves as a visual barrier.

(185) Sign. As defined in Section 3.04.002 of the Town Code.

(~~176a~~186) Sport Court, Private. An area designed for the use of sporting activities including, but not limited to, tennis, basketball, volleyball or other similar nonaquatic sports for the exclusive use of residents and their nonpaying guests.

(187)Stable, Commercial. A stable for horses, mules or ponies, used for the rental of stall space for more than 6 horses, mules or ponies or used for the sale or rental of more than 6 horses, mules or ponies.

(188)Stable, Private. A stable used solely for the owner's private purposes for the keeping of horses, mules or ponies. (See Section 21.5 - Standards for Private Stables. [sic]) Rental stalls for the purposes of boarding horses, mules or ponies are allowed for up to six (6) horses, mules or ponies. If more than six (6) stalls are used for the rental of stall space or the rental or sale of horses, mules or ponies, it shall be considered a commercial stable.

(189)Storage Garage. A building or portion thereof used for the storage of more than five (5) passenger motor vehicles and trucks of not more than one and one-half (1-1/2) ton capacity.

(190)Story, Half. A story having an average height of not more than eight (8) feet, covering a floor area of not more than seventy-five (75) percent of the area of the first story below.

(191) Story, Standard. One having eleven (11) feet six (6) inches between floors.

(192)Street. A public or private thoroughfare which affords the principal means of access to property, including any road or other thoroughfare.

(193) Street Line. A dividing line between a lot, tract or parcel of land and a contiguous street.

(194)Street Median (or Median). The non-pavement or pavement area between the moving traffic lanes of a street.

(195)Structural Alterations. Any change in the supporting members of a building, such as loadbearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

(196)Studios, Art and/or Music. A building or portion of a building used as a place of work by a photographer, musician or artist.

(197) Studios, Therapeutic Massage. Any place of business in which therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy," as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

(198)Swimming Pools - Private. A swimming pool constructed and maintained for the exclusive use of residents and their nonpaying guests.

(199) Tent. A temporary or semi-permanent structure or shelter, consisting of canvas or other material stretched, draped over or attached to a frame or pole(s). A collapsible shelter of canvas or other material stretched and sustained by poles and used for camping outdoors or as a temporary building.

(200) Travel Agency. A business which offers or makes travel arrangements.

(201) Truck. A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles.

(202) Truck Farm. An area or business where fruits and vegetables are sold primarily from vehicles.

(203) Utility Regulating Stations. A facility or substation designed to monitor or distribute electricity.

(204) Variance. A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. A variance may not be granted on the basis of pecuniary hardship.

(205) Veterinarian Hospital or Clinic.~~shall mean a~~ Any institution, place or enclosure used for the harboring or reception for care and/or treatment of injured or sick animals consisting of two (2) or more horses, cattle, dogs, cats, livestock or other animals.

(206) Veterinarian Hospital or Clinic - Large Animals. A veterinary hospital that includes animal boarding facilities that are primarily used for large animals and are not wholly enclosed within a building.

(207) Veterinarian Hospital or Clinic - Small Animals. A veterinary hospital in which all activities are wholly enclosed within a building and are primarily used for small, household pets.

(208) Width of Side Yard. The mean horizontal distance between a side wall of a building and the side line of the lot.

(209) Yard. An open, unoccupied space other than a court, on the lot in which a building is situated, and which is unobstructed from the ground to the sky.

(210) Zoning Districts. The districts established in the Zoning Ordinance of the Town of Bartonville, Texas.

(211) Zoning District Map. The official map upon which the boundaries of the various Zoning Districts are drawn and which is an integral part of the Zoning Ordinance.

(Ordinance 361-05 adopted 3/22/05; Ordinance 376-05, sec. 1, adopted 11/15/05; Ordinance 390-06, sec. 1, adopted 6/20/06; Ordinance 404-06, sec. 1, adopted 9/19/06; Ordinance 418-07, sec. 1, adopted 3/20/07; Ordinance 476-09, sec. 1, adopted 6/16/09; Ordinance 504-10, sec. 1, adopted 9/21/10; Ordinance 513-11, sec. 1, adopted 3/15/11; Ordinance 541-13 adopted 2/19/13; Ordinance 564-14, sec. 1, adopted 7/15/14; Ordinance 576-15, sec. 1, adopted 1/20/15; Ordinance 640-18, sec. 2, adopted 9/18/18; Ordinance 645-18 adopted 11/14/18; Ordinance 652-19, sec. 3, adopted 1/15/19; Ordinance 657-19, sec. 2, adopted 5/21/19; Ordinance 660-19, sec. 2, adopted 6/18/19; Ordinance 691-20 adopted 7/21/20; Ordinance 718-21 adopted 10/19/21; Ordinance 721-22 adopted 4/19/22; Ordinance 730-22 adopted 6/21/2022)

CHAPTER 3
SITE PLANS

§ 3.1. PURPOSE.

A. This Section establishes a review process for nonresidential developments. The purpose is to ensure that a development project is in compliance with all applicable Town ordinances and guidelines prior to commencement of construction.

(Ordinance 361-05 adopted 3/22/05)

§ 3.2. GENERAL SITE PLAN.

A. Approval Process

1. Maximum of Four Steps: The review process shall include up to four (4) steps:

   a. Pre-application conference;

   b. Approval of any required plans or plats (see the Development Ordinance for platting requirements);

   ~~b.~~c. Site Plan; and

   ~~Approval of other required plans or plats (see the Development Ordinance for platting requirements); and~~

   ~~c.~~d. Construction of project (after Town approval of all required plans and plats).

2. Site Plan Required

   a. A General Site Plan shall be required for development within the AG, RE-5, RE-2, R-1, MH, RLI, RB, VC, GC and P/SP zoning districts and specified in Subsection 3.2 E. below.

   b. The approval process for a General Site Plan shall generally be reviewed by the Town Secretary, Town Planner, Town Engineer, recommendation by the Planning and Zoning Commission, and final consideration by the Town Council.

   c. General - For the purposes of this Zoning Ordinance, the term "required plan(s)" is intended to refer to any of the plans specified in this Zoning Ordinance, as applicable.

B. Official Submission Date and Completeness of Application: The "official submission date" shall be the date upon which a complete application for approval of a required plan is submitted to the Town Secretary.

1. No application shall be deemed officially submitted until the Town Secretary determines that the application is complete and a fee receipt is issued by the Town.

2. Applications for any required plan must include all required information listed here and all such required information must be submitted in order for a Site Plan application to be considered complete and to be accepted for official submission by the Town.

   a. An application for a Site Plan with notarized signatures of the owner or his/her designated representative if the applicant is not the owner of the subject property;

b. Application fee as established on the Town of Bartonville schedule of fees;

c. Verification that all taxes and assessments on the subject property have been paid;

d. Copies of the Site Plan, including all information specified by this Ordinance and the Town of Bartonville's Development Ordinance, on 24" x 36" sheet(s) drawn to a known engineering scale that is large enough to be clearly legible and other required information, the quantity of which shall be determined by the Town Secretary, or his/her designee;

e. General layout for the required public improvements (water, wastewater, grading/storm drainage, streets, water quality, fire lanes and hydrants, screening and landscaping, etc.), the quantity of which shall be determined by the Town Secretary, or his/her designee;

~~f. Reduced copies (11" x 17") of the site plan as required by the Town Secretary, or his/her designee;~~

~~g.~~f. Landscaping and irrigation plans, the quantity of which shall be determined by the Town Secretary, or his/her designee; and

~~h.~~g. Any additional information/materials (such as plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the Town Secretary, or his/her designee, in order to ensure that the development request is understood.

C. Supplemental Requirements: The Town's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.

D. Pre-Application Conference: Prior to formal application for approval of a required site plan, the applicant(s) should consult with the Town's Development Review Committee in order to become familiar with the Town's development regulations and the development process. At the pre-application conference, the developer may be represented by his/her land planner, engineer, surveyor, or other qualified professional.

E. Applicability: Submission and approval of a General Site Plan shall be required for development within the AG, RE-5, RE-2, R-1, MH, RLI, RB, VC, GC and P/SP zoning districts as follows:

1. For any new nonresidential development;

2. For any increase in an existing nonresidential structure that is greater than thirty (30) percent of the existing building square footage; or

3. For that portion of a single-family residential development that contains a private amenity or facility - i.e. recreation center, park, horse stable, etc.

F. Building Permit and Certificate of Occupancy: No building permit shall be issued until a Site Plan, as required, and all other required engineering/construction plans are first approved by the Town. No certificate of occupancy shall be issued until all construction and development, conform~~s~~ing~~-~~ to the Site Plan and engineering/construction plans, ~~as approved~~is completed and accepted by the Town.

G. Extent of Area That Should Be Included ~~In~~in a Site Plan: When the overall development project is to be developed in phases, the area included within the Site Plan shall include only the portion of the overall property that is to be developed/constructed.

H. Principles and Standards for Site Plan Review and Evaluation: The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the Town of Bartonville, and to ensure that all developments are, to the best extent possible, constructed according to the Town's codes and ordinances.

The Town Secretary, or his/her designee, shall review the Site Plan for compliance with all applicable Town ordinances and with the Comprehensive Plan; for harmony with surrounding uses and with long-range plans for the future development of Bartonville; for the promotion of the health, safety, order, efficiency, and economy of the Town; and for the maintenance of property values and the general welfare.

General Site plan review and evaluation by the Town Secretary, or his/her designee, shall be performed with respect to the following:

1. The plan's compliance with all provisions of the Zoning Ordinance and other ordinances of the Town of Bartonville.

2. The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

3. The relationship of the development to adjacent uses in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.

4. The provision of a safe and efficient vehicular and pedestrian circulation system.

5. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

6. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.

7. The coordination of streets so as to arrange a convenient system consistent with the Thoroughfare Plan of the Town of Bartonville, as amended.

8. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.

9. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.

10. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

11. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

12. Protection and conservation of watercourses and areas that are subject to flooding.

13. Provision of the adequate capacity of public or private facilities for water, sewer, paved access to and through the development, electricity, storm drainage, and adequate traffic management.

14. Consistency with the Comprehensive Plan of the Town of Bartonville, as amended.

15. In approving a Site Plan, the Town Council may impose additional reasonable conditions necessary to protect the public interest and welfare of the community. When considering an application for site design and use, the Planning and Zoning Commission may recommend and the Town Council may include any or all of the following conditions if they find it necessary to meet the intent and purpose of the standards of this Ordinance:

    a. Require a maximum increase of up to twenty percent (20%) in the width or required plant materials for perimeter bufferyards in order to ensure compatibility between different land uses.

    b. Require such modifications in the landscaping plan as will ensure proper screening and aesthetic appearance.

    c. Require plantings and ground cover to be predominant, not accessory, to other inorganic or dead organic ground cover.

    d. Require retention of significant physical features of a site. Said significant physical features includes, but are not limited to: existing stands of trees, protected trees as specified by the Town's tree preservation standards, bodies of water, watercourses, floodplains and other flood hazard areas, and other natural features.

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

    f. Specify the type and placement or shielding of lights for outdoor circulation, parking, and security.

    g. Require new developments that produce more than five hundred (500) vehicle trips per day to provide traffic mitigation by means of traffic signals, traffic controls, turning islands, landscaping or any other means necessary to insure the viability, safety, and integrity of existing and proposed thoroughfares, based upon the results of a Traffic Impact Assessment meeting the minimum criteria specified in the Development Ordinance, as amended.

    h. Require pedestrian access, separate pedestrian accessways, sidewalks and protection from rain for pedestrians in new developments.

    i. Require developments to provide access to improved streets and, where possible, provide access to the lower order street rather than a major collector or arterial street as designated on the Thoroughfare Plan, as amended.

I. <u>Submission Requirements for Site Plan Approval:</u>
A Site Plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, and it shall clearly show in detail how the site will be constructed (such as paving, buildings, landscaped areas, utilities, etc.). To ensure the submission of adequate information the following information and items shall be submitted with an application for Site Plan approval in addition to any additional specific requirements for the review of Site Plan applications that may be

devised and amended from time to time. It shall be the applicant's responsibility to obtain and be familiar with the requirements for Site Plan approval.

1. A title block within the lower right-hand corner of the concept plan with the proposed name of the project/subdivision;

2. The name and address of the owner/developer and the land planner, engineer architect or surveyor responsible for the design or survey;

3. The scale of the drawing (both written and graphic scale) and north arrow;

4. The date the drawing was prepared;

5. Total site acreage and the location of the property according to the abstract and survey records of Denton County, Texas;

6. A vicinity or location map that shows the location of the proposed development within the Town~~City~~ (or its ETJ) and in relationship to existing roadways;

7. The boundary survey limits of the tract and scale distances with north clearly indicated;

8. The names of adjacent subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc.;

9. The existing uses of the subject property;

10. The general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated;

11. A generalized circulation plan for the subject property showing the proposed locations and patterns of motor vehicle and pedestrian traffic. Said circulation plan shall contain arrows indicating traffic flow;

12. The existing zoning and existing/proposed uses on adjacent land;

13. The location, width and names of all existing or platted streets or other public ways within or adjacent to the tract;

14. The location, type, size and recording information for any existing easements located on the subject property or within two hundred (200) feet of the subject property. In the event no existing easements have been dedicated, a note to that effect shall be provided;

15. The location and building footprints of existing buildings located on the property.

    Existing buildings shall be noted as to those that are to remain and those that are to be removed;

16. Railroad rights-of-way located within two hundred (200) feet of the subject property;

17. Topography, including contours at five-foot intervals, with existing drainage channels or creeks;

18. Any 100-year floodplain as designated on the appropriate Flood Insurance Rate Map (FIRM) located on or within two hundred (200) feet of the subject tract. In the event that a 100-year floodplain is not located on the subject tract or within two hundred (200) feet of

the subject tract, a note to that effect must be provided with the reference to appropriate panel number;

19. Any significant natural features such as rock outcroppings, caves, wildlife habitats, etc.;

20. All substantial natural vegetation;

21. Location of Gas/Oil wells or pipelines;

22. Location, type, size, and ownership of all existing water and wastewater lines. Said water and wastewater lines shall include all appurtenances - i.e. valves, hydrants;

23. Location, type, and size of all drainage and other underground structures;

24. Proposed connection to all existing water, wastewater, and drainage systems;

25. Adjacent political subdivisions, corporate limits, and/or school district boundaries;

26. Proposed strategies for tree preservation ~~proposed strategies for tree preservation [sic]~~ in accordance with ~~Section 3.5 [~~Article 3.05~~]~~ of the Town's Code of Ordinances (showing individual trees or tree masses that will preserved, and the techniques that will be used to protect them during construction);

27. The layout and width (right-of-way lines) of existing and proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways;

28. Existing and planned driveways located within two hundred (200) feet of the subject tract, including those located on the opposite side of divided roadways;

29. A general arrangement of land uses, buildings and other structures, including but not limited to:

    a. Proposed nonresidential and residential densities;

    b. Building footprints for each proposed structure;

    c. Building heights;

    d. Building square footages for each proposed structure. For multi-tenant or multi-purpose buildings, show the square footage for each intended use;

    e. Building massing and orientation;

    f. Location of loading/service areas;

    g. Location of recycling containers, compactors, dumpsters and their enclosures;

    h. Sidewalks and pedestrian walkways;

    i. Parking plan showing the proposed on-site parking stalls with dimensions and driveway aisles with dimensions;

    j. Retention/detention ponds with proposed aesthetic treatments;

    k. Screening walls;

l. Fences;

m. Signage;

n. Fire lanes with dimensions for fire lane aisles and turn-arounds;

o. A lighting plan for all external lighting demonstrating that the ~~City's~~ Town's lighting standards have been met. Said lighting plan shall include the following:

1. The location and type of all lighting fixtures including the height of all pole lights;

2. A photometric analysis showing the estimated illumination at the property line;

3. The type of illumination fixtures to be utilized;

4. The type and method of shielding proposed;

5. Visibility easements; and

6. Any proposed sites for parks, schools, public facilities, public or private open spaces;

~~29a~~30. A landscape plan meeting the Town of Bartonville standards for landscape plans as specified in Chapter 18 of this Ordinance;[6]

31. An irrigation plan meeting the Town of Bartonville standards for irrigation plans as specified in Chapter 18 of this Ordinance;

32. Building facade (elevation) plans showing the type and color of the exterior materials to be utilized for each building or structure and each screening wall. Said building elevations shall be drawn to a scale of one inch equals twenty feet (1" = 20') or any such scale as designated by the Town Secretary, or his/her designee; and

Provision of the above items shall conform to the principles and standards of this Ordinance and the Comprehensive Plan. To ensure the submission of adequate information, the Town is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the Town Secretary, or his/her designee, shall have the authority to update such requirements for site plan and development review applications. It is the applicant's responsibility to be familiar with, and to comply with, these requirements. Failure to include the above-listed information may result in the application being deemed incomplete.

J. Action by Planning and Zoning Commission or Town Council.~~An application for a site plan shall be considered administratively complete upon the occurrence of all of the following: (1) the Town staff and the Town Engineer have determined that the application for a site plan meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning and Zoning Commission or Town Council; (2) the site plan has been placed on a duly posted agenda for the Planning and Zoning Commission or Town Council; and (3) the Planning and Zoning Commission or Town Council has taken action on the site plan. The Filing Date of a site plan means the date a site plan is considered by the Town to be administratively complete and is heard by either the Planning and Zoning Commission or Town Council.~~

The Planning and Zoning Commission ~~or Town Council~~ may take one of the following actions:

(a) ~~approve~~ recommend approval of the site plan; (b) ~~approve~~ recommend approval of the site plan with conditions; or (c) ~~disapprove~~ recommend disapproval of the site plan.

The Town Council may take one of the following actions: (a) approve the site plan; (b) approve the site plan with conditions; or (c) disapprove the site plan.

~~In the event the Planning and Zoning Commission or Town Council conditionally approves or disapproves a site plan, the Planning and Zoning Commission or Town Council shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval of a site plan, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Planning and Zoning Commission or Town Council receives such a response from the applicant, the Planning and Zoning Commission or Town Council shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plan not later than the fifteenth (15th) day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended.~~

~~The statutory 30-day time frame for site plan approvals, established by Chapter 212 of the Texas Local Government Code, shall commence on the Filing Date.~~

~~Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by the applicant, the Planning and Zoning Commission or Town Council may approve one (1) Extension of Right to 30-Day Action, such Extension not to exceed 30 additional days.~~

K. Effect of Review/Approval: ~~The~~ Approval of the Site Plan shall be considered authorization to proceed with construction of the site provided all other required Town approvals are obtained (such as final plat, engineering plans, etc.). Conditions of approval shall be met at the time prescribed by the Town Council.

L. Validity and Lapse of Site Plan Approval:

1. The approved Site Plan shall be valid for a period of two (2) years from the date of Site Plan approval by the Town Council. By the end of the two-year period, the applicant must have completed the next "progress benchmark" as set forth below. If this is not accomplished, then the approved Site Plan shall expire and shall become null and void.

Approved Plan	—>	Next "Progress Benchmark"
Site Plan	<—	Engineering release and commencement of construction of public improvements, and application for a building permit for at least one of the buildings on the approved Site Plan within two (2) years following approval of the Site Plan.

2. Extension and Reinstatement Procedure:

   a. Prior to the lapse of approval for a Site Plan, the applicant may petition the Town (in writing) to extend the Site Plan approval.

b. Such petition shall be considered by the Town Council, and an extension may be granted by the Town Council at such meeting.

c. If no petition is submitted, then the Site Plan shall be deemed to have expired and shall become null and void. Any new request for Site Plan approval shall be deemed a "new project," and shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this Section. The new request shall also be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

d. In determining whether to grant a request for extension, the Town Council shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the Site Plan at that point in time.

M. Notice: All Site Plan submissions shall be subject to the noticing requirements of Appendix A.5, General Notice Requirements.

(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 2, adopted 3/15/11; Ordinance 564-14, sec. 2, adopted 7/15/14; Ordinance 681-20 adopted 2/18/20; Ordinance 760-23 adopted 11/21/2023)

DIVISION II
DISTRICTS

CHAPTER 4
ZONING DISTRICTS

§ 4.1. ESTABLISHMENT OF DISTRICTS.

A. In order to classify and segregate the uses of land and buildings, the following districts are hereby established:

AG	Agricultural (Minimum 10-Acre Lot)
RE-5	Residential Estates 5 (Minimum 5-Acre Lot)
RE-2	Residential Estates 2 (Minimum 2-Acre Lot)
R-1	Single-Family Residential 1 (Minimum 1-Acre Lot)
MH	Manufactured Home
RLI	Rural Light Industrial
RB	Rural Business
VC	Village Center
GC	General Commercial (PD Only District)
PD	Planned Development
P/SP	Public/Semi-Public
CUP	Conditional Use Permit

B. For purposes of determining consistency between the zoning ordinance and the Comprehensive Plan, zoning districts must correspond with one of the land use categories on the Land Use Plan of the Comprehensive Plan as set forth in Chart 4.1, which is incorporated by reference herein.

Chart 4.1 Correlation of Zoning Districts and Comprehensive Plan Categories

PLAN CATEGORY	ZONING DISTRICT
RE-5 - 5-Acre Lots	AG - Agricultural - 10-Acre Lots
	RE-5 - 5-Acre Lots
	Planned Development - Residential
	CUP - Conditional Use Permit
RE-2 - 2-Acre Lots	AG - Agricultural - 10-Acre Lots
	RE-5 - 5-Acre Lots
	RE-2 - 2-Acre Lots
	Planned Development - Residential
	CUP - Conditional Use Permit

Chart 4.1 Correlation of Zoning Districts and Comprehensive Plan Categories	
PLAN CATEGORY	ZONING DISTRICT
Semi-Rural - 1-Acre Lots	AG - Agricultural - 10-Acre Lots
	RE-5 - 5-Acre Lots
	RE-2 - 2-Acre Lots
	Semi-Rural - 1-Acre Lots
	Planned Development - Residential
	CUP - Conditional Use Permit
Manufactured Home	AG - Agricultural - 10-Acre Lots
	RE-5 - 5-Acre Lots
	RE-2 - 2-Acre Lots
	Semi-Rural - 1-Acre Lots
	Manufactured Home
	Planned Development - Residential
	CUP - Conditional Use Permit
Retail	AG - Agricultural - 10-Acre Lots
	RB - Rural Business
	GC - General Commercial (As Specified by ~~Section [~~Chapter 13~~]~~ of this Ordinance)
	Planned Development - Nonresidential
	CUP - Conditional Use Permit
Village Center	VC - Village Center
	Planned Development - Nonresidential
	CUP - Conditional Use Permit

(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 3, adopted 3/15/11; Ordinance 564-14, sec. 3, adopted 7/15/14)

§ 4.2. ZONING MAP.

A. Boundaries of all zoning districts shall be shown on the Zoning Map of Bartonville, Texas. The Zoning Map, together with all legends, symbols, notations, references, district boundaries, and other formulation thereon, is incorporated by reference into this section as if fully set forth thereon.

B. The Zoning Map and a record of all amendments thereto shall be kept on file with the Town Secretary and shall constitute the original record. A copy of the currently effective Zoning Map shall also be kept by the Town Secretary. Changes in the boundaries of any district shall be reflected on the Zoning Map.

C. The Zoning Map may be prepared in sections as required to adequately portray the boundaries of districts. The Zoning Map may include supplemental zoning maps as required to portray street classifications, boundaries of areas subject to specific limitations or exceptions, or such other information as may be required by this Ordinance.

D. The existing zoning map shall remain in effect until amended.
(Ordinance 361-05 adopted 3/22/05)

§ 4.3. DISTRICT BOUNDARIES.

A. Wherever a lot or site is divided by a district boundary, the regulations applicable within each district shall apply to each portion of the site situated in a separate district.

B. The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map:

1. Where boundaries are indicated as approximately following streets or other identifiable property or boundary line, such lines shall be construed to be the district boundary. Where such boundaries are indicated as within street lines or within identifiable rights-of-way or creeks, the centerline thereof shall be construed to be the district boundary.

2. Where a district boundary divides an unsubdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.

3. In case of a district boundary line dividing a platted lot into two parts, the district boundary line shall be construed to be the property line nearest the less restricted district.

4. Map codes or symbols indicating the classification of property on the Zoning Map in each instance apply to the whole of the area within the district boundaries.

5. Where a public street or right-of-way is officially vacated or abandoned, the regulations applicable to the abutting property apply to the centerline of the vacated or abandoned street or right-of-way.

6. Should any uncertainty remain as to the location or meaning of a boundary or other feature indicated upon the Zoning Map, said location or meaning shall be determined by the Board of Adjustment.

C. Where applicable regulations refer to the "classification" of property, the term "classification" means the zone or district applicable to the property.
(Ordinance 361-05 adopted 3/22/05)

§ 4.4. USES NOT PROVIDED FOR IN ZONING DISTRICT REGULATIONS.

If a proposed land use is not expressly listed as a conditional or permitted use in the zoning district regulations, the procedure set, the procedure set forth ~~[sic]~~ in Section 4.11 shall be used.
(Ordinance 361-05 adopted 3/22/05)

§ 4.5. PROHIBITIVE CONVERSIONS.

Unless expressly provided for in these zoning regulations, no land shall be used and no building shall be erected for or converted to any use other than provided in the regulations prescribed for the district in which it is located. No building or portion thereof designed and constructed as a residential

building shall be changed to an office, retail or business use of any type, other than as part of a permitted home ~~occuptation~~occupation.
(Ordinance 361-05 adopted 3/22/05)

§ 4.6. DESIGNATION OF ANNEXED TERRITORY.

A. Zoning for Newly Annexed Territory

1. All territory annexed to the Town hereafter shall be zoned by the governing body of the Town simultaneous with annexation or, as soon as practicable thereafter utilizing the procedure set forth in Appendix A. The Town may consider any zoning classification requested by the property owner, or, in the absence of such request in advance of annexation, the Town may zone the property as Agricultural, Residential, or any other zoning classification reasonably appropriate for the property.

B. Issuance of Permits

1. Prior to initial zoning of the area, no permit for the construction of a building other than a single-family detached dwelling or accessory building shall be issued by the Building Official.

(Ordinance 361-05 adopted 3/22/05)

§ 4.7. AREA STANDARDS FOR DETACHED SINGLE-FAMILY DWELLINGS.

Minimum front, side and rear yard setbacks in any residential district shall be in accordance with the specifications in Chart 4.2 In the event that the standards identified in Chart 4.2 vary from those specified in the district regulations, the standards in the district regulations shall govern.

Chart 4.2 Area Standards for Residential Lots

Zoning District	Side Yard Setback (feet)[1]		Front Yard Setback (feet)[2]	Rear Yard Setback (feet)	Accessory Buildings (Side and Rear Yard Setbacks)
	Interior	Street			
AG	Lesser of 10% of Lot Width or 50'	See Note 2 Below	50'	50'	Same as Primary Structure
RE-5	Lesser of 10% of Lot Width or 50'	See Note 2 Below	50'	50'	Same as Primary Structure
RE-2	Lesser of 10% of Lot Width or 20'	See Note 2 Below	50'	50'	Same as Primary Structure
R-1	Lesser of 10% of Lot Width or 20'	See Note 2 Below	25'	25'	10'
MH	5'	See Note 2 Below	15'	5'	5'

1. When adjacent to a side street, the side yard setback of a corner lot shall not be less than the following, whichever is greater:

(a) 150% of the interior side yard setback shown; or

(b) the front yard setback of any adjacent lot located within 20 feet of the rear lot line of the corner lot, where the front yard of the adjacent lot faces in the same general direction as the side yard of the corner lot.

2. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line.

(Ordinance 361-05 adopted 3/22/05)

§ 4.8. RESIDENTIAL DEVELOPMENT STANDARDS.

Chart 4.3 is a summary of the minimum development and performance standards for the residential zoning districts. In the event that the standards identified in Chart 4.3 vary from those specified in the district regulations, the standards in the district regulations shall govern.

Chart 4.3 Residential Development and Performance Standards Summary Base Density

Zoning District	Minimum Lot Size (acres)	Minimum Street Frontage (feet)	Minimum Lot Width (feet)	Minimum Lot ~~Deep~~ Depth (feet)	Maximum Height	Maximum Lot Coverage (percent of lot area)	Minimum Dwelling Unit Size (square feet)[1]
AG	10	300	250	400	35'/2-1/2 Stories	20	1,500
RE-5	5	300	250	400	35'/2-1/2 Stories	20	1,500
RE-2	2	200	150	240	35'/2-1/2 Stories	30	1,500
R-1	1	150	None	240	35'/2-1/2 Stories	30	1,500
MH	8,500 S.F.	80	None	80	35'/2-1/2 Stories	50	900

Note: In Planned Overlay Districts, density and lot sizes may be different from that tabulated above.

[1]Minimum dwelling unit size is for the main or primary structure.

[2]Any residential property, located with frontage on a Private Road which existed prior to January 1, 2015, is exempt from the Minimum Street Frontage on a public road requirement listed in Chart 4.3. All property is required to meet the minimum foot requirement for the appropriate zoning district. Those private roads being the following:

Private Country Court, Dyer Road, Private Latigo Hills Trail, and Private Porter Road.

In the event any of the above noted private roads are subsequently dedicated or otherwise converted to the public and the lots located thereon are also subsequently redeveloped or subdivided, the minimum street frontage requirement in this section shall apply.

(Ordinance 361-05 adopted 3/22/05; Ordinance 390-06, sec. 2, adopted 6/20/06; Ordinance 527-12, sec. 2, adopted 1/17/12; Ordinance 576-15, sec. 2, adopted 1/20/15)

§ 4.9. AREA STANDARDS FOR NONRESIDENTIAL DISTRICTS.

Minimum front, side and rear yard setbacks in any nonresidential district shall be in accordance with the specifications in Chart 4.4. In the event that the standards identified in Chart 4.4 vary from those specified in the district regulations, the standards in the district regulations shall govern.

Chart 4.4 Area Standards for Nonresidential Lots Base Districts

Zoning District	Side Yard Setback (feet)		Front Yard Setback (feet)	Rear Yard Setback (feet)	Accessory Buildings (Side and Rear Yard Setbacks)
	Interior	Street			
RLI	20	20	40	20	Same as Primary Structure
RB	50[1]	50[1]	50	50[1]	Same as Primary Structure
RS	20[1]	20[1]	50	20[1]	Same as Primary Structure
VC	20[1]	20[1]	50	20[1]	Same as Primary Structure
GC	25[2]	0	50	25[2]	Same as Primary Structure
P/SP	50[1]	50[1]	50	50	Same as Primary Structure

1. Where adjacent to a residential use, residential zoning district or a planned residential land use area as specified on the Bartonville Land Use Plan, as amended, nonresidential structures equal to or less than 15 feet in height shall observe a minimum setback of 75 feet and nonresidential structures greater than 15 feet in height shall observe a minimum setback equal to 5 feet for each 1 foot in height but not less than 75 feet.
2. Where adjacent to a residential zoning district to [sic] shall observe a minimum setback equal to 100 feet.

Note: In Planned Overlay Districts, density and lot sizes may be different from that tabulated above.

(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 4, adopted 3/15/11; Ordinance 564-14, sec. 4, adopted 7/15/14; Ordinance 633-18, sec. 1, adopted 2/20/18; Ordinance 639-18, sec. 3, adopted 9/18/18)

§ 4.10. NONRESIDENTIAL DEVELOPMENT STANDARDS.

Chart 4.5 is a summary of the minimum development and performance standards for the nonresidential zoning districts. In the event that the standards identified in Chart 4.5 vary from those specified in the district regulations, the standards in the district regulations shall govern.

Chart 4.5 Nonresidential Development and Performance Standards Summary Base Districts

Zoning District	Minimum Lot Size (acres)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Maximum Height (fee)	Maximum Impervious Surface (percent of lot area)	Maximum Lot Coverage (percentage of lot area)	Maximum Floor to Area Ratio (F.A.R.)
RLI	1	130	250	50	80	50	0.4:1.0
RB	1	150	250	25	80	50	0.4:1.0
RS	1	150	250	25	90	50	1.0:1.0
VC	1	150	225	50	90	50	1.0:1.0
GC	1	See Section 13.3 B.~~3.~~ ~~[B4]~~4	See Section 13.3 B.~~4.~~ ~~[B5]~~5	50	80	60	0.4:1.0

Chart 4.5 Nonresidential Development and Performance Standards Summary Base Districts							
Zoning District	Minimum Lot Size (acres)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Maximum Height (fee)	Maximum Impervious Surface (percent of lot area)	Maximum Lot Coverage (percentage of lot area)	Maximum Floor to Area Ratio (F.A.R.)
P/SP	1	150	250	25	80	60	0.4:1.0

1. No building shall be more than two and one-half (2-1/2) stories in height.

Note: In Planned Overlay Districts, density and lot sizes may be different from that tabulated above.

(Ordinance 361-05 adopted 3/22/05; Ordinance 417-07, sec. 1, adopted 4/17/07; Ordinance 513-11, sec. 5, adopted 3/15/11; Ordinance 564-14, sec. 5, adopted 7/15/14; Ordinance 633-18, sec. 1, adopted 2/20/18; Ordinance 639-18, sec. 3, adopted 9/18/18)

§ 4.11. LAND USES.

A. The use of land and/or buildings shall be in accordance with those listed in the following Use Charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the Use Charts (Appendix C) is:

P Designates use permitted in the zoning district indicated.

* Designates use prohibited (i.e., not allowed) in the zoning district indicated.

C Designates use may be permitted in the zoning district indicated by Conditional Use Permit (also see Chapter 16).

See Definitions in Chapter 2 of the Zoning Ordinance for further description of uses.

B. If a use is not listed (or blank) in the Use Charts, it is not allowed in any zoning district (see Subsection C below).

C. Classification of New/Unlisted Uses -
It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the Town of Bartonville. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Land Use Charts (Appendix C) shall be made as follows:

1. Initiation:

a. A person, Town department, the Planning and Zoning Commission, or the Town Council may propose zoning amendments to regulate new and previously unlisted uses.

b. A person requesting the addition of a new or unlisted use shall submit to the Town Secretary, or his/her designee, all information necessary for the classification of the use, including but not limited to:

1. The nature of the use and whether the use involves dwelling activity, sales,

services, or processing;

2. The type of product sold or produced under the use;

3. Whether the use has enclosed or open storage and the amount and nature of the storage;

4. Anticipated employment typically anticipated with the use;

5. Transportation requirements;

6. The nature and time of occupancy and operation of the premises;

7. The off-street parking and loading requirements;

8. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;

9. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and

10. Impervious surface coverage.

2. The Town Secretary, or his/her designee, shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by the statement of facts in Subsection b. above. An amendment to this Ordinance shall be required as prescribed by Appendix A.

3. The Planning and Zoning Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted (by right or by CUP).

4. The Planning and Zoning Commission shall transmit its findings and recommendations to the Town Council as to the classification proposed for any new or unlisted use. The Town Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts (Appendix C) of the Zoning Ordinance according to Appendix A.

5. Standards for new and unlisted uses may be interpreted by the Town Secretary, or his/her designee, as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined in Subsection b. above shall be followed for determination of the appropriate district. The decision of the Town Secretary, or his/her designee, may be appealed according to the process outlined in Subsections 2. through 4. above.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 5
AGRICULTURAL DISTRICT (AG)

§ 5.1. PURPOSE.

The Agricultural district (AG) is intended as an area for very low density residential and agriculturally oriented types of uses. The principal purpose of the AG district is to accommodate those property owners who wish to maintain active agricultural operations on their property and to avoid potential conflicts with adjacent residential uses. The AG district will be established only upon request of property owners in the RE-5, RE-2, R-1, Manufactured Home, Retail or Village Center, categories as shown on Chart 4.1 of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 5.2. USES PERMITTED.

A. Those uses listed for the AG district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05)

§ 5.3. KEEPING ANIMALS FOR AGRICULTURAL USES.

All agricultural uses involving animals shall be undertaken in conformance with the rules and regulations of the Town of Bartonville.
(Ordinance 361-05 adopted 3/22/05)

§ 5.4. DEVELOPMENT AND PERFORMANCE STANDARDS.

Single-family Dwelling Unit Standards for the AG district:

A. Minimum lot size is 10 acres.

B. All single-family dwelling units must meet the minimum standards for lot width, front yard setback, side yard setback and rear yard setback as set forth in Chart 4.2, which is incorporated herein by reference, except as may be further modified by Division IV, Special Requirements.

C. All single-family dwelling units must meet the standards for lot depth, height, lot coverage and dwelling unit size set forth in Chart 5.1, which is incorporated herein by reference, except as may be further modified by the Special Regulations in Division IV.

Chart 5.1 Development Standards AG ZONING DISTRICT

DEVELOPMENT STANDARDS	AG DISTRICT
Minimum Lot Depth	400 feet
Maximum Height	2-1/2 stories but not to exceed 35'
Maximum Lot Coverage	20% of lot
Minimum Dwelling Unit Size[1]	1,500 sq. ft.

[1]Minimum dwelling unit size is for the main or primary structure.

D. [Reserved]

E. Standards for Nonresidential Uses. Site plan approval (see Chapter ~~2 [~~3~~]~~) shall be required for any permitted nonresidential use (e.g., school, church, private recreation facility, etc.) in the AG district. Any nonresidential land use which may be permitted in this district shall conform to the "RB" - Rural Business standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. Said site plan approval shall not be required for home occupations uses that conform to the Town's standards.

F. Supplemental Standards.

1. The supplemental standards set forth in the Special Requirements of Division IV shall apply to all uses authorized in this district, as particularly stated therein.

2. Minimum Parcel Size. Except for property on which an existing residence is located, an application for zoning amendment to an AG district shall not be granted unless the application is for 10 or more acres.

G. Miscellaneous.

1. Any buildings or structures for raising, feeding, housing or sale of livestock or poultry shall be located no closer than fifty (50) feet from the property line.

2. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited. Recreational vehicles may be occupied in conjunction with an approved gas well drilling permit when twenty-four-hour on-site supervision is required.

3. Above-ground electrical fencing (does not include underground "virtual fencing," which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except for containment of farm animals on parcels of four (4) or more acres.

4. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc.).

5. In-ground swimming pools shall maintain a minimum setback equal to the lesser of twenty (20) feet from all property lines or a distance equal to the minimum setback requirements for accessory buildings. The minimum setbacks for above-ground pools shall be the same as the minimum setback requirements for accessory buildings.

6. Fences shall conform to the requirements set forth in town code Chapter 3, article 3.10.

7. Other Regulations - As established by Division IV.

8. Water storage tanks used in conjunction with a fully functioning private water well shall meet the setback requirements for accessory buildings.

(Ordinance 361-05 adopted 3/22/05; Ordinance 476-09, sec. 2, adopted 6/16/09; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 6
RESIDENTIAL ESTATES 5 (RE-5)

§ 6.1. PURPOSE.

The Residential Estates 5 (RE-5) district is intended as an area for very low density residential use, with a minimum lot size of five acres. The principal purposes of this zoning district are to conserve and protect agricultural uses, guide development in an orderly fashion in rural areas, and prevent conflicting urban and rural uses. This district is appropriate for selected locations where rural characteristics are desired or where terrain or public service capacities necessitate very low densities. The RE-5 district is appropriate in the RE-5, RE-2, Semi-Rural, and Manufactured Home land use categories as shown on Chart 4.1 of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 6.2. USES PERMITTED.

A. Those uses listed for the RE-5 district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05)

§ 6.3. KEEPING ANIMALS FOR AGRICULTURAL USES.

All agricultural uses involving animals shall be undertaken in conformance with the applicable rules and regulations of the Town of Bartonville.
(Ordinance 361-05 adopted 3/22/05)

§ 6.4. DEVELOPMENT AND PERFORMANCE STANDARDS.

Single-Family Dwelling Unit Standards for the RE-5 district:

A. Minimum lot size for a single-family dwelling unit is 5 acres.

B. All single-family dwelling units must meet the minimum standards for lot width, front yard setback, side yard setback and, rear yard setback as set forth in Chart 4.2, which is incorporated herein by reference, except as may be further modified by the Special Requirements of Division IV.

C. All single-family dwelling units must meet the standards for lot depth, height, lot coverage and dwelling unit size set forth in Chart 6.1, which is incorporated herein by reference, except as may be further modified by Division IV Special Requirements.

Chart 6.1 Development Standards
RE-5 ZONING DISTRICT

DEVELOPMENT STANDARDS	RE-5 DISTRICT
Minimum Lot Depth	400 feet
Maximum Height	2-1/2 stories but not to exceed 35'
Maximum Lot Coverage	20% of lot

RE-5 ZONING DISTRICT	Chart 6.1 Development Standards
DEVELOPMENT STANDARDS	RE-5 DISTRICT
Minimum Dwelling Unit Size[1]	1,500 sq. ft.

[1]Minimum dwelling unit size is for the main or primary structure.

D. Standards for Nonresidential Uses. Site plan approval (see Chapter ~~2 [~~3~~]~~) shall be required for any nonresidential use (e.g., school, church, private recreation facility, etc.) in the RE-5 district. Any nonresidential land use which may be permitted in this district shall conform to the "RB" - Rural Business standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. Said site plan approval shall not be required for home occupations uses that conform to the Town's standards.

E. Supplemental Standards.

1. The Special Requirements in Division IV shall apply to all uses authorized in this district, as particularly stated therein.

2. Minimum Parcel Size. Except for property on which an existing residence is located, an application for zoning amendment to an RE-5 district shall not be granted unless the application is for five (5) or more acres.

F. Miscellaneous.

1. Any buildings or structures for raising, feeding, housing or sale of livestock or poultry shall be located no closer than fifty (50) feet from the property line.

2. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited. Recreational vehicles may be occupied in conjunction with an approved gas well drilling permit when twenty-four-hour on-site supervision is required.

3. Fences shall conform to the requirements set forth in town code Chapter 3, article 3.10.

4. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc.).

5. In-ground swimming pools shall maintain a minimum setback equal to the lesser of twenty (20) feet from side and rear property lines or a distance equal to the minimum setback requirements for accessory buildings. The minimum side and rear setback for above-ground pools shall be the same as the minimum setback requirements for accessory buildings. All pools must maintain a minimum front yard setback equal to the distance measured from the primary structure to the front lot line.

6. Fences shall conform to the requirements set forth in town code Chapter 3, article 3.10.

7. Other Regulations - As established by Division IV.

8. Water storage tanks used in conjunction with a fully functioning private water well shall meet the setback requirements for accessory buildings.

(Ordinance 361-05 adopted 3/22/05; Ordinance 476-09, sec. 3, adopted 6/16/09; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 7
RESIDENTIAL ESTATES 2 (RE-2)

§ 7.1. PURPOSE.

The Residential Estates 2 (RE-2) district is intended as an area for low density residential use, with a minimum lot size of two acres. The principal purposes of this zoning district are to provide areas for rural residential development, guide development in an orderly fashion, and allow for a land use buffer for areas of lower intensity. This district is appropriate for selected locations where the Town is transitioning from high intensity areas to very low density residential and agricultural areas. The RE-2 district is appropriate in the RE-2, Semi-Rural, and Manufactured Home land use categories as shown on Chart 4.1 of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 7.2. USES PERMITTED.

A. Those uses listed for the RE-2 district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05)

§ 7.3. KEEPING ANIMALS FOR AGRICULTURAL USES.

All agricultural uses involving animals shall be undertaken in conformance with the rules and regulations of the Town of Bartonville.
(Ordinance 361-05 adopted 3/22/05)

§ 7.4. DEVELOPMENT AND PERFORMANCE STANDARDS.

Single-Family Dwelling Unit Standards for the RE-2 District:

A. Minimum lot size for a single-family dwelling unit is two acres.

B. All single-family dwelling units must meet the minimum standards for lot width, front yard setback, side yard setback and rear yard setback, as set forth in Chart 4.2, which is incorporated herein by reference, except as may be further required in Division IV by the Special Regulations.

C. All single-family dwelling units must meet the standards for lot depth, height, lot coverage and dwelling unit size set forth in Chart 7.1, which is incorporated herein by reference, except as may be further modified by the Special Requirements in Division IV.

RE-2 ZONING DISTRICT	Chart 7.1 Development Standards
DEVELOPMENT STANDARDS	RE-2 DISTRICT
Minimum Lot Depth	240'
Maximum Height	2-1/2 stories but not to exceed 35'
Maximum Lot Coverage	30% of lot

RE-2 ZONING DISTRICT	Chart 7.1 Development Standards
DEVELOPMENT STANDARDS	RE-2 DISTRICT
Minimum Dwelling Unit Size[1]	1,500 sq. ft.

[1]Minimum dwelling unit size is for the main or primary structure.

D. Standards for Nonresidential Uses. Site plan approval (see Chapter ~~2 [~~3~~]~~) shall be required for any nonresidential use (e.g., school, church, private recreation facility, etc.) in the RE-2 district. Any nonresidential land use which may be permitted in this district shall conform to the "RB" - Rural Business standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. Said site plan approval shall not be required for home occupations uses that conform to the Town's standards.

E. Supplemental Standards.

1. The supplemental standards set forth in the Supplemental Requirements in Division IV shall apply to all uses authorized in this district, as particularly stated therein.

2. Minimum Parcel Size. Except for property on which an existing residence is located, an application for zoning amendment to an RE-2 district shall not be granted unless the application is for 2 or more acres.

3. Minimum Parcel Size for Equestrian Center or Animal-Assisted Therapy Uses: An application for a CUP to allow an equestrian center or animal-assisted therapy use shall not be granted unless the application is for 5 or more acres.

F. Miscellaneous.

1. Any buildings or structures for raising, feeding, housing or sale of livestock or poultry shall be located no closer than fifty (50) feet from the property line.

2. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited.

3. Fences shall conform to the requirements set forth in Chapter 20, Section 20.3.

4. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc.).

5. In-ground swimming pools shall maintain a minimum setback equal to the lesser of twenty (20) feet from side and rear property lines or a distance equal to the minimum setback requirements for accessory buildings. The minimum side and rear setback for above-ground pools shall be the same as the minimum setback requirements for accessory buildings. All pools must maintain a minimum front yard setback equal to the distance measured from the primary structure to the front lot line.

6. Other Regulations - As established by Division IV.

7. Water storage tanks used in conjunction with a fully functioning private water well shall meet the setback requirements for accessory buildings.

(Ordinance 361-05 adopted 3/22/05; Ordinance 476-09, sec. 4, adopted 6/16/09; Ordinance 637-18, sec. 2, adopted 8/13/18; Ordinance 652-19, sec. 4, adopted 1/15/19; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 8
SINGLE-FAMILY RESIDENTIAL 1 (R-1)

§ 8.1. PURPOSE.

The Single-Family Residential 1 (R-1) District is intended to accommodate existing development with minimum lot sizes of one acre. Additional zoning beyond that already within the Town is not appropriate. The R-1 district corresponds to and implements the Semi-Rural land use category as shown on Chart 4.1 of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 8.2. USES PERMITTED.

A. Those uses listed for the R-1 district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05)

§ 8.3. ADDITIONAL MAPPING RESTRICTED.

A. With the exception of that existing area within the Town limits, no additional R-1 districts shall be mapped.

(Ordinance 361-05 adopted 3/22/05)

§ 8.4. DEVELOPMENT AND PERFORMANCE STANDARDS.

Single-Family Dwelling Unit Standards for the R-1 District:

A. Minimum lot size for a single-family dwelling unit is one (1) acre.

B. All single-family dwelling units must meet the minimum standards for lot width, front yard setback, side yard setback and rear yard setback, as set forth in Chart 4.2, which is incorporated herein by reference, except as may be further in Division IV.

C. All single-family dwelling units must meet the standards for lot depth, height, lot coverage and dwelling unit size set forth in Chart 8.1, which is incorporated herein by reference, except as may be further required in the Special Requirements in Division IV.

Chart 8.1 Development Standards R-1 ZONING DISTRICT

DEVELOPMENT STANDARDS	R-1 DISTRICT
Minimum Lot Depth	240'
Maximum Height	2-1/2 stories but not to exceed 35'
Maximum Lot Coverage	30% of lot
Minimum Dwelling Unit Size[1]	1,500 sq. ft.

[1]Minimum dwelling unit size is for the main or primary structure.

D. [Reserved]

E. Standards for Nonresidential Uses. Site plan approval (see Chapter ~~2 [~~3~~]~~) shall be required for any nonresidential use (e.g., school, church, private recreation facility, etc.) in the R-1 district. Any nonresidential land use which may be permitted in this district shall conform to the "RB" - Rural Business standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. Said site plan approval shall not be required for home occupations uses that conform to the Town's standards.

F. Supplemental Standards.

1. The supplemental standards set forth in the Special Requirements in Division IV shall apply to all uses authorized in this district, as particularly stated therein.

~~2. MinimumParcelSize.Except for property on which an existing residence is located, an application for zoning amendment to an R-1 district shall not be granted.~~

G. Miscellaneous.

1. Any buildings or structures for raising, feeding, housing of livestock or poultry shall be located no closer than fifty (50) feet from the property line.

2. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited.

3. Fences shall conform to the requirements set forth in town code Chapter 3, article 3.10.

4. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc.).

5. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited. Recreational vehicles may be occupied in conjunction with an approved gas well drilling permit when twenty-four-hour on-site supervision is required.

6. Other Regulations - As established by Division IV.

7. Water storage tanks used in conjunction with a fully functioning private water well shall meet the setback requirements for accessory buildings.

(Ordinance 361-05 adopted 3/22/05; Ordinance 476-09, sec. 5, adopted 6/16/09; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 9
MANUFACTURED HOME (MH)

§ 9.1. PURPOSE.

The Manufactured Home (MH) district is a detached residential district establishing standards for a manufactured home subdivision and is intended to accommodate the existing manufactured home subdivision located within the Town of Bartonville. The Manufactured Home district establishes minimum criteria for MH subdivisions. Areas zoned for the MH district shall be designed to adequately accommodate storm drainage; they shall have paved streets in accordance with the Town of Bartonville Development Ordinance with logical and efficient vehicular circulation patterns that discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.
(Ordinance 361-05 adopted 3/22/05)

§ 9.2. USES PERMITTED.

A. Those uses listed for the MH district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05)

§ 9.3. ADDITIONAL MAPPING RESTRICTED.

A. With the exception of that existing area within the Town limits, no additional MH districts shall be mapped.

(Ordinance 361-05 adopted 3/22/05)

§ 9.4. DEVELOPMENT AND PERFORMANCE STANDARDS.

Manufactured Home Dwelling Unit Standards for the MH District:

A. Minimum lot size for a single-family dwelling unit is eight thousand and five hundred (8,500) square feet.

B. All single-family dwelling units must meet the minimum standards for lot width, front yard setback, side yard setback and rear yard setback, as set forth in Chart 4.2, which is incorporated herein by reference, except as may be further modified in Division IV.

C. All single-family dwelling units must meet the standards for lot depth, height, lot coverage and dwelling unit size set forth in Chart 9.1, which is incorporated herein by reference, except as may be further required in the Special Requirements in Division IV.

Chart 9.1 Development Standards MH ZONING DISTRICT

DEVELOPMENT STANDARDS	R-1 DISTRICT
Minimum Lot Depth	80'
Maximum Height	2-1/2 stories but not to exceed 35'

Chart 9.1 Development Standards MH ZONING DISTRICT	
DEVELOPMENT STANDARDS	R-1 DISTRICT
Maximum Lot Coverage	50% of lot
Minimum Dwelling Unit Size[1]	900 sq. ft.

[1]Minimum dwelling unit size is for the main or primary structure.

D. Standards for Nonresidential Uses. Site plan approval (see Chapter ~~2 [~~3~~]~~) shall be required for any nonresidential use (e.g., school, church, child care center, private recreation facility, etc.) in the MH district. Any nonresidential land use which may be permitted in this district shall conform to the "RB" - Rural Business standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc. Said site plan approval shall not be required for home occupations uses that conform to the Town's standards.

E. Supplemental Standards.

1. The Special Requirements in Division IV shall apply to all uses authorized in this district, as particularly stated therein.

2. Except for property on which an existing residence is located, an application for zoning amendment to an MH district shall not be granted.

F. Miscellaneous.

1. Any buildings, structure or yard for raising, feeding, pasturing, housing of livestock or poultry shall be located no closer than fifty (50) feet from the property line.

2. The minimum setback requirements for recreational vehicles shall be the same as the minimum setback requirements for accessory buildings. No recreational vehicle shall be connected to any utilities. Habitation and/or temporary occupancy is prohibited.

3. [Reserved]

4. Fences shall conform to the requirements set forth in town code Chapter 3, article 3.10.

5. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc.).

6. Single-family homes with side-entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-four feet (24') from the door face of the garage or carport to the side property line for maneuvering. The minimum setback from any garage door to a street or right-of-way line shall also be twenty-four feet (24').

~~7. Swimming pools (pursuant to applicable rules and regulations of the Town of Bartonville).~~

~~8.~~7. Other Regulations - As established by Division IV.

~~9.~~8. All swimming pools shall maintain a minimum setback of five (5) feet from side and rear property lines. Front yard setbacks shall be equal to the distance measured from the

primary structure to the front lot line. Swimming pools shall also be subject to all applicable rules and regulations of the Town of Bartonville

(Ordinance 361-05 adopted 3/22/05; Ordinance 476-09, sec. 5, adopted 6/16/09; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 10
RURAL LIGHT INDUSTRIAL (RLI)

§ 10.1. PURPOSE.

The Rural Light Industrial (RLI) District is intended to accommodate newly annexed area in the southern portion of the Town that includes existing development with minimum lot sizes of one acre. RLI zoning is not appropriate in other areas of Town.
(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 6, adopted 3/15/11)

§ 10.2. USES PERMITTED.

A. Those uses listed for the RLI district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 6, adopted 3/15/11)

§ 10.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 10.1, unless further modified by the Minimum Design Criteria in Subsection B. below, [or] the Special Requirements in Division IV.

Chart 10.1 Development Standards RLI ZONING DISTRICT

DEVELOPMENT STANDARDS	RLI DISTRICT
Front Yard Setback	40 feet
Side Yard Setback:	
Standard Adjacent to Residential District or Use	20 feet
Rear Yard Setback:	
Standard Adjacent to Residential District or Use	20 feet
Maximum Height	50'
Maximum Lot Coverage	50%
Maximum Floor Area Ratio	0.4:1.0

B. Special Area Regulations:

1. Minimum Lot Size -One (1) Acre
2. Maximum Impervious Surface -Eighty percent (80%) of total lot
3. Minimum Lot Width -One hundred and thirty feet (130')
4. Minimum Lot Depth -Two hundred and fifty feet (250')

C. Minimum Design Criteria:

1. Building Orientation:

a. The primary structure shall have its primary orientation toward a front yard. Said primary orientation shall include a main or primary entrance.

b. Loading Docks or Loading Areas:

1. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

2. Shall conform to the Special Requirements in Division IV.

c. Exterior Construction/Design:

~~1. Exterior Materials:~~

~~a. The front facade of the primary structure shall contain a minimum of fifty percent (50%) masonry material.~~

~~b. Said masonry material shall be limited to clay fired brick, Austin stone, cast stone or other such comparable masonry material as approved by the Town.~~

~~2.~~1. Colors:

a. The primary exterior color of buildings shall be comprised of earth tones and shall be used on at least eighty-five percent (85%) of the building facade, exclusive of doors and windows.

b. Secondary accent color(s) may be used on a maximum of fifteen percent (15%) of the exterior facade, exclusive of doors and windows.

c. Trim colors shall complement the colors used to meet Subsection 2.a.

d. Colors shall be specifically approved on the building elevations submitted and approved with the mandatory General Site Plan or Administrative Site Plan.

d. Awnings/Canopies:

1. The use of decorative awnings/canopies is permitted provided that all awnings/ canopies are designed to be compatible with the structure in which they are located.

2. Awnings/canopies shall be of a consistent pattern, size, shape and material and shall be consistent or complementary to construction of the building and approved with site plan approval.

3. A minimum clearance of eight (8) feet must be maintained above all sidewalks and a minimum clearance of fourteen (14) feet must be maintained above the street pavement.

e. Roofs:

1. Flat roofs are prohibited.

2. Roofs shall have minimum slopes of four (4) feet of rise for every twelve (12) feet of run (4:12).

2. Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure and with the designs depicted in Appendix D.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Installed light sources may not use the equivalent of more than 1,200 lumens per bulb and shall be installed in such a manner so as to be shielded from public view and mitigate glare and light spill.

4. There shall be no direct illumination of any residential use or zoning district adjacent to a proposed RB District development.

5. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. "Fully shielded" means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light-emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

3. <u>Open Storage:</u> All open storage must be completely screened from view from all property lines and public rights-of-way.

4. Trash Storage Areas and Mechanical Equipment:

a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

1. Mechanical Equipment Screening: Ground-Mounted Mechanical Equipment and similar items shall be fully screened from view.

2. Roof-Mounted Equipment:

a. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on four sides to a height equal to or greater than that of the mechanical equipment.

b. The structural screen specified in Subsection ~~1. [~~a.~~]~~ above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

c. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation: Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

b. Trash Receptacle Screening:

1. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

2. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

5. Loading and Service Areas:

a. Loading and service areas shall be located at the side or rear of the primary structure.

b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semitrailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of materials that are of like and similar materials to those of the primary structure.

c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

6. Parking:

a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

7. Compatibility with Residential Uses:

a. <u>Compatibility Buffer:</u>

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

a. The landscaped setback shall consist of a minimum ten-foot (10') landscape buffer. Understory plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

b. Native shade trees, a minimum of three inches (3") in trunk diameter as measured four feet (4') above the ground and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

D. Exception to Minimum Design Criteria:

~~1. Exceptions to the requirements for exterior construction materials as specified herein may be permitted on a case-by-case basis. All requests for alternative exterior building materials shall be noted and described on a site plan with elevation drawings to be submitted to the Town Council for approval after recommendation by the Planning and Zoning Commission. If requested by the Town, a sample of the material(s) proposed may be required to be submitted with the site plan.~~

~~2. Town Council may approve alternative exterior materials if it is determined to be equivalent or better than those materials specified by this Chapter.~~

~~3.~~1. Consideration for exceptions to the ~~exterior materials~~minimum design requirements may be authorized to achieve the following:

a. Architectural design and creativity - architectural variances may be considered to achieve a specific architectural theme or design that requires the use of alternative ~~materials~~ design requirements than those specified; or

b. Compatibility with surrounding developed properties. (Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 6, adopted 3/15/11)

§ 10.4. SPECIAL REQUIREMENTS.

A. Driveway Spacing(distance between driveways, measured edge-to-edge):

1. Arterial street - One driveway per two hundred and fifty (250) linear feet of frontage.

2. Collector street - One driveway per one hundred (100) linear feet of frontage.

3. Local street - One driveway per fifty (50) linear feet of frontage.

4. Minimum distance from driveway to street corner - Fifty feet (50'), as measured from the street corner radius point of tangency.

B. Driveway Separation from Intersections(distance measured from the centerline of the rights-of-way to the pavement edge of the driveway):

1. Arterial street intersection with another street - Two hundred and fifty feet (250').

2. Collector street intersection with another street - One hundred feet (100').

3. Residential street intersection with another street - Fifty feet (50').

C. Site Plan Review -Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (in accordance with Chapter 3) shall be required for any tract/lot within the RLI district. No certificate of occupancy shall be issued until all construction and development, conforming to the Site Plan and engineering/construction plans, is completed and

accepted by the Town~~No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Town Council.~~

D. Building facade or elevation plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Town may, as is deemed appropriate, require submission of additional information ~~and materials such as actual samples of proposed exterior building materials~~ during the Site Plan review process.

E. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

F. Maintenance Requirements for Common Areas -A property owners' association is required for continued maintenance of any common land and facilities provided within the development (see the Subdivision Ordinance for POA/HOA requirements).

G. Other Regulations -As established in the Special Requirements in Division IV. (Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 6, adopted 3/15/11)

CHAPTER 11
RURAL BUSINESS DISTRICT (RB)

§ 11.1. PURPOSE.

The Rural Business (RB) district is intended to provide local shopping facilities which provide retail business service and office facilities for the convenience of residents of the Town. Site development regulations and performance standards are intended to ensure that uses will be compatible and complementary in scale and appearance with a residential environment. The RB district corresponds to and implements the Retail land use category as shown on Chart 4.1 of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 11.2. USES PERMITTED.

A. Those uses listed for the RB district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

B. Accessory buildings and structures incidental to the operation of the retail business or service activities specified in Appendix C above shall be permitted, provided that the building or structure does not exceed four hundred (400) square feet, is located behind the primary structure, and is constructed with the same or similar building facade and material as the primary structure and pursuant to Section.

C. Outside display incidental to the operation of the retail business or service activities specified in Appendix C shall be permitted. However, outside storage of goods, merchandise or equipment is prohibited. Except as otherwise permitted as a conditional use, no outside display may be located outside a rectangular area extending no more than thirty feet (30') from the front face of the primary structure on the lot or tract and limited ~~in~~ to the width of the primary structure. The display must be stored or removed daily at the close of business hours.

(Ordinance 361-05 adopted 3/22/05)

§ 11.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 11.1, unless further modified by the Minimum Design Criteria in Subsection B. below, ~~[~~or~~]~~ the Special Requirements in Division IV.

Chart 11.1.
Development Standards RB ZONING DISTRICT

DEVELOPMENT STANDARDS	RB DISTRICT
Front Yard Setback	50 feet (or as specified in subsection B. below)
Side Yard Setback:	
Standard	50 feet
Adjacent to Residential District or Use	See subsection B.1. below
Rear Yard Setback:	

Chart 11.1. Development Standards RB ZONING DISTRICT	
DEVELOPMENT STANDARDS	RB DISTRICT
Standard	50 feet
Adjacent to Residential District or Use	See subsection B.1. below
Maximum Height	25'
Maximum Lot Coverage	50%
Maximum Floor Area Ratio	0.4:1.0

B. Special Area Regulations:

1. Special Side and Rear Yard Setbacks -These special side and rear yard setbacks shall apply where a proposed nonresidential use is adjacent to a residential use, residential zoning district or a planned residential use as specified on the Town of Bartonville Land Use Plan, as amended.

   a. Nonresidential Structures equal to or less than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - Seventy-five (75) feet from a side or rear property line~~[.]~~

   b. Nonresidential Structures more than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - ~~Five (5) foot~~ One additional foot setback for ~~each~~ every ~~five (5) feet~~foot in height ~~but not less than~~above fifteen feet, but not less than seventy-five (75) feet~~[.]~~

2. All retail uses authorized within this district must be contained in a detached, freestanding building. A detached building does not abut any other building and all sides of the building are surrounded by a yard, a parking area or open and vacant space.

   a. Nonretail uses are authorized in semi-detached buildings. These uses may have no more than one common wall provided the exterior sides of the building are surrounded by a yard, a parking area or open and vacant space.

3. Minimum Lot Size -One (1) Acre

4. Maximum Impervious Surface -Eighty percent (80%) of total lot

5. Minimum Lot Width -One hundred and fifty feet (150')

6. Minimum Lot Depth -Two hundred and fifty feet (250')

C. Minimum Design Criteria:

1. Building Orientation:

   a. The primary structure shall have its primary orientation toward a front yard. Said primary orientation shall include a main or primary entrance.

   b. Loading Docks or Loading Areas:

1. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

2. Shall conform to the Special Requirements in Division IV.

c. Primary Entrances:

1. Primary entrances shall have a clearly defined, highly visible customer entrance with distinguishing features such as a canopy, portico or other prominent element of the architectural design.

2. Buildings shall incorporate lighting and changes in mass, surface or finish giving emphasis to primary entrances.

d. Exterior Construction/Design:

~~1. Exterior Materials:~~

~~a. The front facade of the primary structure shall contain a minimum of ninety percent (90%) masonry material.~~

~~b. Said masonry material shall be limited to clay fired brick, Austin stone, cast stone or other such comparable masonry material as approved by the Town.~~

~~c. Prefinished metal wall panels, concrete blocks, halite blocks and stucco are prohibited.~~

~~2.~~1. Colors:

a. The primary exterior color of buildings shall be comprised of earth tones and shall be used on at least eighty-five percent (85%) of the building facade, exclusive of doors and windows.

b. Secondary accent color(s) may be used on a maximum of fifteen percent (15%) of the exterior facade, exclusive of doors and windows.

c. Trim colors shall complement the colors used to meet Subsection 2.a.

d. Colors shall be specifically approved on the building elevations submitted and approved with the mandatory General Site Plan or Administrative Site Plan.

e. Windows:

1. Windows shall be of a residential style consistent with the design(s) depicted in ~~Exhibit C [~~Appendix D~~]~~ (architectural standards).

2. Windows shall be provided with trim.

3. Windows shall not be flush with the exterior wall treatment.

4. Total window area shall not exceed forty percent (40%) of any given exterior elevation with no window greater than six feet (6') in width without a ~~masonry~~ material break of at least eighteen inches (18") in width.

5. The style of windows shall be consistent with the design and construction of the structure.

2. Building Articulation for Primary Structures:

a. For every sixty (60) feet of a building wall visible from a public street or a residentially zoned property, there shall be a change in the building footprint providing for an~~ jog or~~ offset measuring a minimum of five (5) feet.

3. Design Features:

a. Archways:

1. Archways may be used in conjunction with doorways or windows and shall have an architectural style consistent with the design depicted in ~~Exhibit C [~~Appendix D~~]~~ (architecture standards).

b. Exposed Columns (Structural or Decorative):

1. Exposed columns shall be constructed of or clad with a material that is of like and similar material to that of the primary structure.

~~c. Glass:~~

~~1. Glass curtain walls are prohibited.~~

~~d.~~c. Awnings/Canopies:

1. The use of decorative awnings/canopies is permitted provided that all awnings/ canopies are designed to be compatible with the structure in which they are located.

2. Awnings/canopies shall be of a consistent pattern, size, shape and material and shall be consistent or complementary to construction of the building and approved with site plan approval.

3. A minimum clearance of eight (8) feet must be maintained above all sidewalks and a minimum clearance of fourteen (14) feet must be maintained above the street pavement.

4. Roofs:

a. Flat roofs are prohibited.

b. Roofs shall have minimum slopes of seven (7) feet of rise for every twelve (12) feet of run (7:12).

c. Installed roofing shingles must consist of dimensional shingles with a minimum manufacturers rating of thirty (30) years. Roofing systems or materials exceeding the standards established herein may be used pursuant to approval by the Building Official or his designee.

5. Outdoor Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure and with the designs depicted in Appendix D.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Outdoor lighting fixtures installed in the town having total electric consumption in excess of 150 watts or total light emission in excess of 1,200 lumens, except those illuminating a flag of a state or nation, shall be shielded in a manner that:

   a. Confines the light so that it falls entirely on a wall or sign, or confines the light entirely below an angle fifteen (15) degrees below a horizontal plane at the level of the lowest point of the fixture at which light is emitted or reflected by a specular reflector; and

   b. Prevents a line of sight from any point off the property on which the fixture is situated to a light source or a specular reflector within or incidental to the fixture.

4. No property within this district shall have outdoor lighting fixtures that do not conform to Subsection (C)(5)~~(c)~~.

5. The illumination on any outdoor surface or object, including signs, at the point of maximum illumination shall not exceed:

   a. Eighteen footcandles on a business property when the business is open; or

   b. Three footcandles on a business property when a business is closed or absent.

      i. Reduction of illumination, if necessary, shall be accomplished by the disconnection or re-lamping of fixtures or electrical dimming.

6. Installation or replacement of a mercury arc or mercury discharge lamp of any size or kind is prohibited.

7. Any outdoor lighting fixture existing on a property at the time when zoning was applied to the property and which does not conform to this Subsection (C)(5)~~(c) of this section~~ and which has been damaged to the extent that the cost of repair exceeds 60% of the cost of replacement shall be considered destroyed and shall be replaced only with a fixture that conforms to this regulation.

8. Any lighting fixture, except those of a public entity, existing on a property at the time when zoning is applied to the property and which does not conform to this Subsection (C)(5)~~(c) of this section~~ shall be removed or discontinued within 5 years from the time of application of initial zoning to the property.

9. There shall be no direct illumination upon any residential use or zoning district adjacent to a proposed RB District development.

10. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. "Fully shielded" means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

6. Open Storage: Except as otherwise permitted as a conditional use, open or outside storage is prohibited. Exception: Retail Nurseries and/or Garden Centers.

7. Outside Display:

   a. Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, and shall be limited to the following:

      1. Outside display areas shall not be placed or located more than thirty (30) feet from the main building.

      2. Outside display areas shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property, except on a temporary basis only, which is a maximum of thirty (30) days per display and a maximum of two displays per calendar year.

      3. Outside display areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

      4. Outside display areas shall not extend into public right-of-way or onto adjacent property.

      5. Outside display items shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Trash Storage Areas and Mechanical Equipment:

   a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

      1. Mechanical Equipment Screening:

         a. Ground Mounted Mechanical Equipment:

            1. Mechanical equipment and similar items shall be fully screened with a masonry screening wall constructed of like and similar materials to those of the primary structure.

         b. Roof Mounted Equipment:

            1. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on four sides to a height equal to or greater than that of the mechanical equipment.

2. The structural screen specified in Subsection ~~1~~a. above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

3. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation:

a. Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

2. Trash Receptacle Screening:

a. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

b. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of masonry materials of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

9. Loading and Service Areas:

a. Loading and service areas shall be located at the side or rear of the primary structure.

b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of masonry materials that are of like and similar materials to those of the primary structure.

c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

10. Parking:

a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

11. Compatibility with Residential Uses:

a. Compatibility Buffer:

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

a. A brick or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Said wall shall be a minimum of six feet (6') in height, except that the first twenty-five feet (25') in from the street line may be stepped down to a minimum height of four feet (4'). The Planning and Zoning Commission may approve alternative wall construction materials on a site plan if the alternative accomplishes the same purpose as a brick or masonry wall.

b. The landscaped setback shall consist of a minimum twenty-five foot (25') landscape buffer. Under-story plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

c. Native shade trees, a minimum of three inches (3") in trunk diameter as measured four feet (4') above the ground and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

D. Exception to Minimum Design Criteria:

~~1. Exceptions to the requirements for exterior construction materials as specified herein may be permitted on a case-by-case basis. All requests for alternative exterior building materials shall be noted and described on a site plan with elevation drawings to be submitted to the Town Council for approval after recommendation by the Planning and Zoning Commission. If requested by the Town, a sample of the material(s) proposed may be required to be submitted with the site plan.~~

~~2. Town Council may approve alternative exterior materials if it is determined to be equivalent or better than those materials specified by this Chapter.~~

~~3.~~1. Consideration for exceptions to the ~~exterior materials~~minimum design requirements may be authorized to achieve the following:

a. Architectural design and creativity - architectural variances may be considered to achieve a specific architectural theme or design that requires the use of alternative ~~materials~~ design requirements than those specified; or

b. Compatibility with surrounding developed properties. (Ordinance 361-05 adopted 3/22/05; Ordinance 578-15, sec. 1, adopted 3/17/15)

§ 11.4. SPECIAL REQUIREMENTS.

A. Driveway Spacing(distance between driveways, measured edge-to-edge):

1. U.S. Highway 407 - One driveway per three hundred (300) linear feet of frontage.

2. Arterial street - One driveway per two hundred and fifty (250) linear feet of frontage.

3. Collector street - One driveway per one hundred (100) linear feet of frontage.

4. Local street - One driveway per fifty (50) linear feet of frontage.

5. Minimum distance from driveway to street corner - Fifty feet (50'), as measured from the street corner radius point of tangency.

B. Driveway Separation from Intersections(distance measured from the centerline of the rights -of-way to the pavement edge of the driveway):

1. U.S. Highway 407 intersection with another street - Three hundred feet (300').

2. Arterial street intersection with another street - Two hundred and fifty feet (250').

3. Collector street intersection with another street - One hundred feet (100').

4. Residential street intersection with another street - Fifty feet (50').

C. Site Plan Review -Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (in accordance with Chapter 3) shall be required for any tract/lot within the RB district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Town Council.

D. Landscaping Requirements -See Chapter 18.

E. Screening Requirements -See town code Chapter 3, article 3.10.

F. Outside display of merchandise and seasonal items shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30') from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

G. Open storage is prohibited.

H. Building facade or elevation plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Town may, as is deemed appropriate, require submission of additional information and materials such as actual samples of proposed exterior building materials during the Site Plan review process.

I. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

J. Maintenance Requirements for Common Areas -A property owners' association is required for continued maintenance of any common land and facilities provided within the development (see the Subdivision Ordinance for POA/HOA requirements).

K. Tents are not permitted on property unless there is maintained a permanent structure.

L. Other Regulations -As established in the Special Requirements in Division IV.
(Ordinance 361-05 adopted 3/22/05; Ordinance 376-05, sec. 2, adopted 11/15/05; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 11A
RURAL SERVICES (RS)

§ 11A.1. PURPOSE.

The Rural Services (RS) district is intended to provide for commercial development on F.M. 407. RS district standards provides for local shopping establishments which provide retail services for the convenience of residents of the Town. The RS district corresponds to and implements the Rural Services land use category as shown on Chart 4.1 of this Ordinance.
(Ordinance 639-18, sec. 2, adopted 9/18/18)

§ 11A.2. USES PERMITTED.

A. Those uses listed for the RS district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

B. Accessory buildings and structures incidental to the operation of the retail business or service activities specified in Section 11A.2.A above shall be permitted, provided that the building or structure does not exceed four hundred (400) square feet, is located behind the primary structure, and is constructed with the same or similar building facade and material as the primary structure and pursuant to Chapter 19.

C. Outside display incidental to the operation of the retail business or service activities specified in Appendix C shall be permitted. However, outside storage of goods, merchandise or equipment is prohibited unless approved in the Site Plan process or by Conditional Use Permit.

(Ordinance 639-18, sec. 2, adopted 9/18/18)

§ 11A.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 11A.1, and by the Minimum Design Criteria in Subsection C, below, the Special Regulations Criteria in Subsection B, below, and the Special Requirements in Division IV.

Chart 11A.1 Development Standards
RS ZONING DISTRICT

DEVELOPMENT STANDARDS	RS DISTRICT
Front Yard Setback	50 feet (or as specified in subsection B. below)
Side Yard Setback:	
Standard	20 feet
Adjacent to Residential District or Use	See subsection B.1. below
Rear Yard Setback	
Standard	50 feet
Adjacent to Residential District or Use	See subsection B.1. below

Chart 11A.1 Development Standards RS ZONING DISTRICT	
DEVELOPMENT STANDARDS	RS DISTRICT
Maximum Height	25'[1]
Maximum Lot Coverage	50%
Maximum Floor Area Ratio	1.0:1.0

[1]No building shall be more than one (1) story in height.

B. Special Area Regulations:

1. Special Side and Rear Yard Setbacks -These special side and rear yard setbacks shall apply where a proposed nonresidential use is adjacent to a residential use, residential zoning district or a planned residential use as specified on the Town of Bartonville Land Use Plan, as amended.

   a. Nonresidential Structures equal to or less than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - Seventy-five (75) feet from a side or rear property line.

   b. Nonresidential Structures more than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - One additional foot setback for every foot in height above fifteen feet, but not less than seventy-five (75) feet.~~One (1) foot for each five (5) feet in height but not less than seventy-five (75) feet.~~

2. Minimum Lot Size -One (1) Acre

3. Maximum Impervious Surface -Ninety percent (90%) of total lot area

4. Minimum Lot Width -One hundred and fifty feet (150')

5. Minimum Lot Depth -Two hundred and fifty feet (250')

C. Minimum Design Criteria:

1. Building Orientation:

   a. Primary Entrances:

      1. Primary entrances shall have a clearly defined, highly visible customer entrance with distinguishing features such as a canopy, portico or other prominent element of the architectural design.

      2. Buildings shall incorporate lighting and changes in mass, surface or finish to give emphasis to primary entrances.

   b. Loading Docks or Loading Areas:

      1. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

2. Shall conform to the Special Requirements in Division IV.

2. Exterior Construction/Design:

a. Exterior Materials:

~~1. All permanent structures shall be constructed with a minimum of ninety percent (90%) masonry material.~~

~~2. Said masonry material shall be limited to clay fired brick, Austin stone, cast stone or other such comparable masonry material as approved by the Town.~~

~~3. Prefinished metal wall panels, concrete blocks, halite blocks and stucco are prohibited.~~

~~4.~~1. For every sixty (60) feet of a building wall visible from a public street or a residentially zoned property, there shall be a change in the exterior masonry material for the full building elevation from the finished grade to the top of the structure.

b. Colors:

1. The primary exterior color of buildings shall be comprised of earth tones and shall be used on at least eighty-five percent (85%) of the building facade, exclusive of doors and windows.

2. Secondary accent color(s) may be used on a maximum of fifteen percent (15%) of the exterior facade, exclusive of doors and windows.

3. Trim colors shall complement the colors used to meet Subsection b.1.

4. Colors shall be specifically approved on the building elevations submitted and approved with the mandatory General Site Plan or Administrative Site Plan.

c. Windows:

1. A maximum of forty percent (40%) of the building facade along the ground floor and adjacent to a public street shall consist of display areas, windows, or doorways.

2. The style of windows shall be consistent with the design and construction of the structure.

3. Design Features:

a. Archways:

1. Archways may be used in conjunction with doorways or windows and shall have an architectural style consistent with the design depicted in Appendix D (architectural standards).

b. Exposed Columns (Structural or Decorative):

1. Exposed columns shall be constructed of or clad with a material that is of like and similar material to that of the primary structure.

~~c. Glass:~~

~~1. Glass curtain walls are prohibited.~~

~~d.~~c. Awnings/Canopies:

1. The use of decorative awnings/canopies is permitted provided that all awnings/ canopies are designed to be compatible with the structure in which they are located.

2. Awnings/canopies shall be of a consistent pattern, size, shape and material and shall be consistent or complementary to construction of the building and approved with site plan approval.

3. A minimum clearance of eight (8) feet must be maintained above all sidewalks and a minimum clearance of fourteen (14) feet must be maintained above the street pavement.

4. Roofs:

a. Flat roofs are prohibited unless approved in the Site Plan. If a flat roof is approved in the Site Plan, then the building walls shall extend to parapets that enclose the roof area. Said parapets shall be of a sufficient height to fully screen the roof and any mechanical equipment located on the roof. Facades shall provide variations in vertical elevation articulation to prevent a straight or uninterrupted building line to discourage a bulk or box-type look to a building.

5. Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure and with the designs depicted in Appendix D.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Installed light sources may not use the equivalent of more than 1,200 lumens per bulb and shall be installed in such a manner so as to be shielded from public view and mitigate glare and light spill.

4. There shall be no direct illumination of any residential use or zoning district adjacent to a proposed RS District development.

5. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. “Fully shielded” means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light-emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

6. Trash Storage Areas and Mechanical Equipment:

a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

1. Mechanical Equipment Screening:

a. Ground-Mounted Mechanical Equipment:

1. Mechanical equipment and similar items shall be fully screened with a masonry screening wall constructed of like and similar materials to those of the primary structure.

b. Roof-Mounted Equipment:

1. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on four sides to a height equal to or greater than that of the mechanical equipment.

2. The structural screen specified in Subsection ~~1~~a. above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

3. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation:

a. Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

2. Trash Receptacle Screening:

a. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

b. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of masonry materials of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

7. Loading and Service Areas:

a. Loading and service areas shall be located at the side or rear of the primary structure.

b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of masonry materials that are of like and similar materials to those of the primary structure.

c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

8. Parking:

a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

9. Compatibility with Residential Uses:

a. Compatibility Buffer:

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

a. A brick or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Said wall shall be a minimum of six feet (6') in height, except that the first twenty-five feet (25') in from the street line may be stepped down to a minimum height of four feet (4').

b. The landscaped setback shall consist of a minimum twenty-five-foot (25') landscape buffer. Understory plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

c. Native shade trees, a minimum of three inches (3") in trunk diameter as measured four feet (4') above the ground and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

2. The Town Council shall have the authority to approve alternate equivalent screening materials or methods including, but not limited to, living screens as outlined in Section 18.6.I.1.c of this Ordinance.

(Ordinance 639-18, sec. 2, adopted 9/18/18)

CHAPTER 12
VILLAGE CENTER DISTRICT (VC)

§ 12.1. PURPOSE.

The Village Center (VC) district is intended to accommodate the existing village center development located on the western side of F.M. 407. VC district standards provide for development requirements that are consistent with the existing development and provides for local shopping establishments which provide retail business service and office facilities for the convenience of residents of the Town. No additional VC districts shall be mapped. The VC district corresponds to and implements the Village Center land use category as shown on Chart 4.1. of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 12.2. USES PERMITTED.

A. Those uses listed for the VC district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

B. Accessory buildings and structures incidental to the operation of the retail business or service activities specified in Section 12.2 A. above shall be permitted, provided that the building or structure does not exceed four hundred (400) square feet, is located behind the primary structure, and is constructed with the same or similar building facade and material as the primary structure and pursuant to Chapter 19.

C. Outside display incidental to the operation of the retail business or service activities specified in Appendix C shall be permitted. However, outside storage of goods, merchandise or equipment is prohibited. Except as otherwise permitted as a conditional use, no outside display may be located outside a rectangular area extending no more than fifteen feet (15') from the front face of the primary structure on the lot or tract and limited ~~in~~ to the width of the primary structure. The display must be stored or removed daily at the close of business hours.

(Ordinance 361-05 adopted 3/22/05)

§ 12.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 12.1, and by the Minimum Design Criteria in Subsection B. below, the Special Regulations Criteria in Section 12.4, and the Special Requirements in Division IV.

Chart 12.1 Development Standards VC ZONING DISTRICT

DEVELOPMENT STANDARDS	VC DISTRICT
Front Yard Setback	50 feet (or as specified in B. below)
Side Yard Setback:	
Standard	20 feet
Adjacent to Residential District or Use	See B.1. below

Chart 12.1 Development Standards VC ZONING DISTRICT	
DEVELOPMENT STANDARDS	VC DISTRICT
Rear Yard Setback	
Standard	50 feet
Adjacent to Residential District or Use	See B.1. below
Maximum Height	35'[1]
Maximum Lot Coverage	50%
Maximum Floor Area Ratio	1.0:1.0

[1]No building shall be more than two and one-half (2-1/2) stories in height.

B. Special Area Regulations:

1. Special Side and Rear Yard Setbacks -These special side and rear yard setbacks shall apply where a proposed nonresidential use is adjacent to a residential use, residential zoning district or a planned residential use as specified on the Town of Bartonville Land Use Plan, as amended.

   a. Nonresidential Structures equal to or less than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - Seventy-five (75) feet from a side or rear property line

   b. Nonresidential Structures more than fifteen (15) feet in height as measured from the finished grade to the tallest portion of the structure - One (1) foot for each ~~five~~ one (~~5~~1) ~~feet~~ foot in height above 15 feet, but not less than seventy-five (75) feet

2. Minimum Lot Size -One (1) Acre

3. Maximum Impervious Surface -Ninety percent (90%) of total lot area

4. Minimum Lot Width -One hundred fifty feet (150')

5. Minimum Lot Depth -Two hundred twenty-five feet (225')

C. Minimum Design Criteria:

1. Building Orientation:

   a. Primary Entrances:

      1. Primary entrances shall have a clearly defined, highly visible customer entrance with distinguishing features such as a canopy, portico or other prominent element of the architectural design.

      2. Buildings shall incorporate lighting and changes in mass, surface or finish to give emphasis to primary entrances.

b. Loading Docks or Loading Areas:

1. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

2. Shall conform to the Special Requirements in Division IV.

2. Exterior Construction/Design:

a. Exterior Materials:

~~1. All permanent structures shall be constructed with a minimum of ninety percent (90%) masonry material.~~

~~2. Said masonry material shall be limited to clay fired brick, Austin stone, cast stone or other such comparable masonry material as approved by the Town.~~

~~3. Prefinished metal wall panels, concrete blocks, halite blocks and stucco are prohibited.~~

~~4.~~1. For every sixty (60) feet of a building wall visible from a public street or a residentially zoned property, there shall be a change in the exterior masonry material for the full building elevation from the finished grade to the top of the structure.

b. Colors:

1. The primary exterior color of buildings shall be comprised of earth tones and shall be used on at least eighty-five percent (85%) of the building facade, exclusive of doors and windows.

2. Secondary accent color(s) may be used on a maximum of fifteen percent (15%) of the exterior facade, exclusive of doors and windows.

3. Trim colors shall complement the colors used to meet Subsection 2.a [b.1].

4. Colors shall be specifically approved on the building elevations submitted and approved with the mandatory General Site Plan or Administrative Site Plan.

c. Windows:

1. A maximum of forty percent (40%) of the building facade along the ground floor and adjacent to a public street shall consist of display areas, windows, or doorways.

2. The style of windows shall be consistent with the design and construction of the structure.

3. Design Features:

a. Archways:

1. Archways may be used in conjunction with doorways or windows and shall have an architectural style consistent with the design depicted in ~~Exhibit "D" [~~Appendix D~~]~~.

b. Exposed Columns (Structural or Decorative):

1. Exposed columns shall be constructed of or clad with a material that is of like and similar material to that of the primary structure.

~~c. Glass:~~

~~1. Glass curtain walls are prohibited.~~

~~d.~~c. [Reserved]

~~e.~~d. Awnings/Canopies:

1. The use of decorative awnings/canopies is permitted provided that all awnings/ canopies are designed to be compatible with the structure in which they are located.

2. Awnings/canopies shall be of a consistent pattern, size, shape and material and shall be consistent or complementary to construction of the building and approved with site plan approval.

3. A minimum clearance of eight (8) feet must be maintained above all sidewalks and a minimum clearance of fourteen (14) feet must be maintained above the street pavement.

4. Roofs:

a. Flat roofs are prohibited unless: (1) the structure is a multi-story building, and (2) is approved in the Site Plan. If a flat roof is approved in the Site Plan, then the building walls shall extend to parapets that enclose the roof area. Said parapets shall be of a sufficient height to fully screen the roof and any mechanical equipment located on the roof.

b. Unless a flat roof is approved in the Site Plan, roofs shall have minimum slopes of seven (7) feet of rise for every twelve (12) feet of run (7:12).

c. Unless a flat roof is approved in the Site Plan, installed roofing shingles must consist of dimensional shingles with a minimum manufacturers rating of thirty (30) years. Roofing systems or materials exceeding the standards established in this subsection (c) may be used pursuant to approval by the Building Official or his designee.

5. Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure and with the designs depicted in Appendix D.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Installed light sources may not use the equivalent of more than 1,200 lumens per bulb and shall be installed in such a manner so as to be shielded from public view and mitigate glare and light spill.

4. There shall be no direct illumination of any residential use or zoning district adjacent to a proposed VC District development.

5. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. "Fully shielded" means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light-emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

6. Open Storage:

   a. Open or outside storage is prohibited.

7. Outside Display:

   a. Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, may be allowed by a Conditional Use Permit and shall be limited to the following:

      1. Outside display areas shall not be placed or located more than thirty (30) feet from the main building.

      2. Outside display areas shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property, except on a temporary basis only, which is a maximum of thirty (30) days per display and a maximum of two displays per calendar year.

      3. Outside display areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

      4. Outside display areas shall not extend into public right-of-way or onto adjacent property.

      5. Outside display items shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

8. Trash Storage Areas and Mechanical Equipment:

   a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

      1. <u>Mechanical Equipment Screening:</u>

         a. Ground-Mounted Mechanical Equipment:

            1. Mechanical equipment and similar items shall be fully screened with a masonry screening wall constructed of like and similar materials to those of the primary structure.

b. Roof-Mounted Equipment:

1. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on four sides to a height equal to or greater than that of the mechanical equipment.

2. The structural screen specified in Subsection ~~1~~a. above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

3. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation:

a. Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

2. Trash Receptacle Screening:

a. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

b. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of masonry materials of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

9. Loading and Service Areas:

a. Loading and service areas shall be located at the side or rear of the primary structure.

b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of masonry materials that are of like and similar materials to those of the primary structure.

c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

10. Parking:

a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

11. Compatibility with Residential Uses:

a. Compatibility Buffer:

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

a. A brick or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Said wall shall be a minimum of six feet (6') in height, except that the first twenty-five feet (25') in from the street line may be stepped down to a minimum height of four feet (4').

b. The landscaped setback shall consist of a minimum twenty-five foot (25') landscape buffer. Understory plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

c. Native shade trees, a minimum of three inches (3") in trunk diameter as measured four feet (4') above the ground and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

12. Drive-Throughs:

a. Drive-through shall be located on the side or rear of the building.

b. Menu boards and speakers shall not face a public street.

c. Canopies shall be provided and shall match the building architecture.

d. Drive through shall not be located to or facing a tract of land zoned or used as a residence.

(Ordinance 361-05 adopted 3/22/05; Ordinance 417-07, sec. 2, adopted 4/17/07; Ordinance 633-18, sec. 2, adopted 2/20/18; Ordinance 635-18 adopted 6/19/18; Ordinance 660-19, sec. 3, adopted 6/18/19)

§ 12.4. SPECIAL REQUIREMENTS.

A. Driveway Spacing(distance between driveways, measured edge-to-edge):

1. U.S. Highway 407 - One driveway per three hundred (300) linear feet of frontage.

2. Arterial street - One driveway per two hundred and fifty (250) linear feet of frontage.

3. Collector street - One driveway per one hundred (100) linear feet of frontage.

4. Local street - One driveway per fifty (50) linear feet of frontage.

5. Minimum distance from driveway to street corner - Fifty feet (50'), as measured from the street corner radius point of tangency.

B. Driveway Separation from Intersections(distance measured from the centerline of the rights -of-way to the pavement edge of the driveway):

1. U.S. Highway 407 intersection with another street - Three hundred feet (300').

2. Arterial street intersection with another street - Two hundred and fifty feet (250').

3. Collector street intersection with another street - One hundred feet (100').

4. Residential street intersection with another street - Fifty feet (50').

C. Site Plan Review -Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (in accordance with Chapter 3) shall be required for any tract/lot within the RB district. No certificate of occupancy shall be issued until all construction and development, conforming to the Site Plan and engineering/construction plans, is completed and accepted by the Town~~No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Town Council.~~

D. Landscaping Requirements -See Chapter 18.

E. Screening Requirements -See town code Chapter 3, article 3.10.

F. Outside display of merchandise and seasonal items shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30') from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

G. Open or outside storage is prohibited.

H. Building facade or elevation plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Town may, as is deemed appropriate, require submission of additional information ~~and materials such as actual samples of proposed exterior building materials~~ during the Site Plan review process.

I. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

J. Maintenance Requirements for Common Areas -A property owners' association is required for continued maintenance of any common land and facilities provided within the development (see the Development Ordinance for POA/HOA requirements).

K. Tents are not permitted on property unless there is maintained a permanent structure.

L. Other Regulations -As established in the Special Requirements in Division IV.
(Ordinance 361-05 adopted 3/22/05; Ordinance 376-05, sec. 2, adopted 11/15/05; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 13
GENERAL COMMERCIAL (GC) (Planned Development District Only)

§ 13.1. PURPOSE.

The General Commercial (GC) district is intended as a Planned Development district only - no stand-alone GC districts shall be allowed. The standards specified in this section are intended as base standards only and are intended to serve as the basis by which a PD will be crafted for this district in accordance with Chapter 15 of this Ordinance. The GC district provides for larger scale office, retail and service uses intended to serve a regional consumer base. A GC district is only appropriate in the Extraterritorial Jurisdiction adjacent to the northeast corner of F.M. 407, McMakin and Jeter Roads, at such time that it is annexed into the Town limits. It shall not be mapped at any other locations within the Town.
(Ordinance 361-05 adopted 3/22/05)

§ 13.2. USES PERMITTED.

A. Those uses listed for the GC district as shown in Appendix C or as established in the applicable PD.

B. Accessory buildings and structures incidental to the operation of the retail business or service activities specified in Section 13.2 A. above shall be permitted, provided that the building or structure does not exceed four hundred (400) square feet, is located behind the primary structure, and is constructed with the same or similar building facade and material as the primary structure and pursuant to Chapter 19.

C. Outside display incidental to the operation of the retail business or service activities specified in Section ~~[~~13.2 A.~~]~~ above shall be permitted. However, outside storage of goods, merchandise or equipment is prohibited. Except as otherwise permitted as a conditional use, no outside display may be located outside a rectangular area extending no more than fifteen feet (15') from the front face of the primary structure on the lot or tract and limited ~~in~~ to the width of the primary structure. The display must be stored or removed daily at the close of business hours.

(Ordinance 361-05 adopted 3/22/05)

§ 13.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 13.1, and by the Minimum Design Criteria in Subsection B. below, the Special Regulations Criteria in Section 13.4, and the Special Requirements in Division IV.

Chart 13.1 Development Standards GC ZONING DISTRICT

DEVELOPMENT STANDARDS	GC DISTRICT
Front Yard Setback	50 feet (or as specified in B. below)
Side Yard Setback	See B.1 Below
Rear Yard Setback	See B.1 Below
Maximum Height	35'[1]

Chart 13.1 Development Standards GC ZONING DISTRICT	
DEVELOPMENT STANDARDS	GC DISTRICT
Maximum Lot Coverage	60%
Maximum Floor Area Ratio	0.4:1.0

1. No building shall be more than two and one-half (2-1/2) stories in height.

B. Special Area Regulations:

1. Side and Rear Yard Setbacks:

   a. Minimum Side and Rear Yard -Twenty-five feet (25') unless adjacent to a residentially zoned property (see Subsection c. below)

   b. Interior Side Yards -When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site where lots or lease spaces abut one another no side yard is required provided it complies with the Town's Building Code.

   c. Minimum Side or Rear Yard Adjacent to a Residential District -One hundred feet (100')

2. Minimum Lot Size -One (1) Acre

3. Maximum Impervious Surface -Eighty percent (80%) of total lot

4. Minimum Lot Width:

   a. Lots Fronting Onto F.M. 407 or Arterial, as Designated on the Thoroughfare Plan, as Amended - Two hundred feet (200') at the front property line with shared access; three hundred feet (300') at the front property line without shared access

   b. Lots Other Than Those Specified in a. Above - One hundred feet (100') at the front building line with shared access; Two hundred and fifty feet (250') at the front building line without shared access

5. Minimum Lot Depth:

   a. Lots Fronting Onto F.M. 407 or Arterial, as Designated on the Thoroughfare Plan, As Amended - Three hundred feet (300')

   b. Lots Other Than Those Specified in a. Above - None

6. Minimum Lot Frontage for Cul-de-Sac Lots:

   a. Lots with frontage onto a cul-de-sac end shall provide for a minimum lot frontage of one hundred feet (100') at the front property line.

C. Minimum Design Criteria:

1. Orientation and Scale of Primary Structure(s):

   a. Buildings located within fifty feet (50') of a street right-of-way shall have their primary orientation toward a front yard.

   b. Primary Entrances:

      1. Primary entrances shall have a clearly defined, highly visible customer entrance with distinguishing features such as a canopy, portico or other prominent element of the architectural design.

      2. Buildings shall incorporate lighting and changes in mass, surface or finish to give emphasis to primary entrances.

2. Loading Docks or Loading Areas:

   a. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

   b. Shall conform to the Special Requirements in Division IV.

~~3. Building Materials for Primary Structures:~~

   ~~a. One hundred percent (100%) of any exposed exterior wall of main buildings, parking structures, and accessory buildings excluding doors and windows shall consist of glass, native stone, clay fired brick or tile, or a combination of these materials. Other finishes and materials may be used at the sole discretion of the Town Council if adopted as a condition or standard of the planned development and if permitted by the Town of Bartonville building and fire codes.~~

   ~~b. The Town Council may allow, at its sole discretion, the use of concrete or concrete block on exterior walls that are not visible from a public right-of-way. These finishes must be consistent in color with the remainder of the building. These would include the walls of service courts and other facilities that are secluded from view by the specific design of a building or group of buildings.~~

   ~~c. Glass:~~

      ~~1. All exterior building materials comprised of glass shall have a maximum exterior visible reflectance of twenty (20) percent.~~

      ~~2. Glass shall not comprise more than fifty percent (50%) of the building skin.~~

~~4.~~3. Building Articulation for Primary Structures:

   a. Exterior walls visible from a public street or a residentially zoned property shall have offsets, jogs or other distinctive changes in the building facade.

   b. For every eighty (80) feet of building wall visible from a public street or a residentially zoned property, there shall be a change in the building footprint providing for a jog or offset measuring a minimum of five feet (5').

~~5.~~4. Large-Scale Projects:

a. These design standards shall apply to developments having 40,000 square feet and more in gross floor area of building space, inclusive of all primary, secondary, and accessory structures.

b. Large-Scale Design Criteria:

1. Developments shall design large building masses to relate to human scale by incorporating changes in building mass or direction, sheltering roofs, a distinct pattern of divisions on surfaces, windows, trees and small-scale lighting.

2. All on-site circulation systems shall incorporate a streetscape, which includes curbs, sidewalks, pedestrian-scale light standards, and street trees.

c. Public Spaces:

1. One (1) square foot of plaza or public space shall be required for every ten (10) square feet of gross floor area.

2. Plazas or public spaces shall incorporate at least three (3) of the five (5) following elements:

a. Sitting Space - at least one (1) sitting space for each two hundred and fifty (250) square feet of area included in the plaza. Seating shall be a minimum of sixteen (16) inches in height and thirty (30) inches in width. Ledge benches shall have a minimum depth of thirty (30) inches.

b. A mixture of areas that provide both sunlight and shade.

c. Trees in proportion to the space at a minimum of one (1) tree per eight hundred (800) square feet that measure a minimum of three inches (3") in diameter.

d. Water features or public art.

3. Mandatory Open Space:

a. A minimum of forty (40) percent of the total lot area of a project shall be devoted to open space.

b. Minimum open space requirements may be calculated on the basis of the overall development including required bufferyard(s), provided that the minimum open space on any individual lot within the development is not less than fifteen (15) percent.

4. On-Site Circulation:

a. Protected, raised walkways shall be installed through parking areas of fifty (50) or more spaces or more than one hundred (100) feet in average width or depth.

b. Parking lots with fifty (50) spaces or more shall be divided into separate areas divided by landscaped areas or walkways measuring a minimum of ten (10) feet in width or by a building or group of buildings.

c. Developments of one (1) acre or more must provide a pedestrian circulation plan for the site. Pedestrian walkways shall be directly linked to entrances and the internal circulation of the building.

d. Connections shall be made when feasible to any streets adjacent to the property and to any pedestrian facilities that connect to the property unless pedestrian and/or traffic hazards prohibit such connections.

e. Pedestrian areas shall be connected via a sidewalk to adjacent residential areas.

~~6.~~5. Roofs:

a. Flat Roofs:

1. Building walls shall extend to parapets that enclose the roof area. Said parapets shall be of ~~a~~ sufficient height to fully screen the roof and any mechanical equipment located on the roof.

b. Sloped Roofs:

1. Roofs shall have minimum slopes of seven (7) feet of rise for every twelve (12) feet of run (7:12).

2. Installed roofing shingles must consist of dimensional shingles with a minimum manufacturer's rating of thirty (30) years. Roofing systems or materials exceeding the standards established herein may be used pursuant to approval by the Building Official or his designee.

~~7.~~6. Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Installed light sources may not use the equivalent of more than 1,200 lumens per bulb and shall be installed in such a manner so as to be shielded from public view and mitigate glare and light spill.

4. There shall be no direct illumination of any residential use or zoning district adjacent to a proposed GC District development.

5. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. "Fully shielded" means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light-emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

~~8.~~7. Open Storage:

a. Open or outside storage is prohibited.

~~9.~~8. Outside Display:

a. Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, shall be limited to the following:

1. Outside display areas shall not be placed or located more than fifteen feet (15') from the main building.

2. Outside display areas shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property, except on a temporary basis only, which is a maximum of thirty (30) days per display and a maximum of two displays per calendar year.

3. Outside display areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Outside display areas shall not extend into public right-of-way or onto adjacent property.

5. Outside display items shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

~~10.~~9. Trash Storage Areas and Mechanical Equipment:

a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

1. Mechanical Equipment Screening:

a. Ground-Mounted Mechanical Equipment:

a. Mechanical equipment and similar items shall be fully screened with a masonry screening wall constructed of like and similar materials to those of the primary structure.

b. Roof-Mounted Equipment:

a. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on for sides to a height equal to or greater than that of the mechanical equipment.

b. The structural screen specified in Subsection 1. above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

c. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation:

a. Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

2. Trash Receptacle Screening:

a. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

b. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of masonry materials of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

~~11.~~10. Loading and Service Areas:

a. Loading and service areas shall be located at the side or rear of the primary structure.

b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of masonry materials that are of like and similar materials to those of the primary structure.

c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

~~12.~~11. Parking:

a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

~~13.~~12. Pump islands and canopies of uses selling gasoline shall be set back a minimum of 25 feet.

~~14.~~13. Compatibility with Residential Uses:

a. Compatibility Buffer:

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses or any public street as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

a. A brick or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Said wall shall be a minimum of six feet (6') in height, except that the first

twenty-five feet (25') in from the street line may be stepped down to a minimum height of four feet (4').

b. The landscaped setback shall consist of a minimum twenty-five foot (25') landscape buffer. Understory plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

c. Native shade trees, a minimum of three inches (3") in trunk diameter and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

~~15.~~14. Drive-Throughs and Restaurants (with Drive-Throughs):

a. Drive-through shall be located on the side or rear of the building.

b. Menu boards and speakers shall not face a public street.

c. Canopies shall be provided and shall match the building architecture.

d. Drive-through shall not be located adjacent to or facing a tract of land zoned or used as a residence.

(Ordinance 361-05 adopted 3/22/05; Ordinance 417-07, sec. 3, adopted 4/17/07; Ordinance 700-21, sec. 2, adopted 3/16/21; Ordinance 718-21 adopted 10/19/21)

§ 13.4. SPECIAL REQUIREMENTS.

A. Driveway Spacing(distance between driveways, measured edge-to-edge):

1. U.S. Highway 407 - One driveway per three hundred (300) linear feet of frontage.

2. Arterial street - One driveway per two hundred and fifty (250) linear feet of frontage.

3. Collector street - One driveway per one hundred (100) linear feet of frontage.

4. Local street - One driveway per fifty (50) linear feet of frontage.

5. Minimum distance from driveway to street corner - Fifty feet (50'), as measured from the street corner radius point of tangency.

B. Driveway Separation from Intersections(distance measured from the centerline of the rights-of-way to the pavement edge of the driveway):

1. U.S. Highway 407 intersection with another street - Three hundred feet (300').

2. Arterial street intersection with another street - Two hundred and fifty feet (250').

3. Collector street intersection with another street - One hundred feet (100').

4. Residential street intersection with another street - Fifty feet (50').

C. Site Plan Review -Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (in accordance with Chapter 3) shall be required for any tract/lot within the RB district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Town Council.

D. Landscaping Requirements -See Chapter 18.

E. Screening Requirements -See town code Chapter 3, article 3.10.

F. Outside display of merchandise and seasonal items shall be limited to the following:

1. Shall not be placed/located more than thirty feet (30') from the main building.

2. Shall not occupy any of the parking spaces that are required by this Ordinance for the primary use(s) of the property (except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year).

3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

4. Shall not extend into public right-of-way or onto adjacent property.

5. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

G. Building facade or elevation plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Town may, as is deemed appropriate, require submission of additional information ~~and materials such as actual samples of proposed exterior building materials~~ during the Site Plan review process.

H. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

I. Maintenance Requirements for Common Areas -A property owners' association is required for continued maintenance of any common land and facilities provided within the development (see the Subdivision Ordinance for POA/HOA requirements).

J. Tents are not permitted on property unless there is maintained a permanent structure.

K. Other Regulations -As established in the Special Requirements in Division IV.

(Ordinance 361-05 adopted 3/22/05; Ordinance 376-05, sec. 2, adopted 11/15/05; Ordinance 760-23 adopted 11/21/2023)

CHAPTER 14~~A~~
PUBLIC/SEMI-PUBLIC~~7~~

§ 14~~A~~.1. PURPOSE.

The Public/Semi-Public (P/SP) District is established to provide services pertaining to the health, safety, welfare and quality of life throughout the community. These facilities are mostly provided by public, not for profit, governmental or quasi-governmental entities that require physical facilities to provide their respective services.
(Ordinance 564-14, sec. 6, adopted 7/15/14)

§ 14~~A~~.2. USES PERMITTED.

A. Those uses listed for the P/SP district in Appendix C as "P" are permitted uses by right or as "C" are conditionally permitted uses through a Conditional Use Permit (CUP). CUPs (conditional uses) must be approved utilizing procedures set forth in Chapter 16.

B. Accessory buildings and structures incidental to the operation of the facility or service activities specified in Appendix C above shall be permitted, provided that the building or structure does not exceed four hundred (400') square feet, is located behind the primary structure, and is constructed with the same or similar building facade and material as the primary structure and pursuant to Section 19.4.

(Ordinance 564-14, sec. 6, adopted 7/15/14)

§ 14~~A~~.3. DEVELOPMENT AND PERFORMANCE STANDARDS.

A. Minimum development standards for nonresidential uses, where applicable, shall be those set forth in Chart 14.1, unless further modified by the Minimum Design Criteria in Subsection B. below, ~~[~~or~~]~~ the Special Requirements in Division IV.

Chart 14.1 Development Standards P/SP ZONING DISTRICT	
DEVELOPMENT STANDARDS	P/SP DISTRICT
Front Yard Setback	50 feet
Side Yard Setback:	
Standard	50 feet
Adjacent to Residential District or Use	75 feet
Rear Yard Setback	
Standard	50 feet
Adjacent to Residential District or Use	75 feet
Maximum Height	25'

~~Editor's note–Ord. 564-14 amended the zoning ordinance by adding a new chapter 14, "Public/Semi-Public." The zoning ordinance already contained a chapter 14. The new provisions have been designated as chapter 14A and existing chapter 14 has been designated as chapter 14B. The sections of this chapter were numbered as 10.1, 10.2, etc., in Ord. 546-14.~~

Chart 14.1 Development Standards P/SP ZONING DISTRICT	
DEVELOPMENT STANDARDS	P/SP DISTRICT
Maximum Lot Coverage	60%
Maximum Floor Area Ratio	0.4:1.0

B. Special Area Regulations:

1. Minimum Lot Size -One (1) Acre

2. Maximum Impervious Surface -Eighty percent (60%) [sic] of total lot

3. Minimum Lot Width -One hundred and fifty feet (150')

4. Minimum Lot Depth -Two hundred and fifty feet (250')

C. Minimum Design Criteria:

1. Building Orientation:

a. The primary structure shall have its primary orientation toward a front yard. Said primary orientation shall include a main or primary entrance.

b. Loading Docks or Loading Areas:

1. Shall not be permitted to be visible from a street and shall not be accessed directly from a street.

2. Shall conform to the Special Requirements in Division IV.

c. Exterior Construction/Design:

~~1. Exterior Materials:~~

~~a. The front facade of the primary structure shall contain a minimum of ninety percent (90%) masonry material.~~

~~b. Said masonry material shall be limited to clay fired brick, Austin stone, cast stone or other such comparable masonry material as approved by the Town.~~

~~2.~~1. Colors:

a. The primary exterior color of buildings shall be comprised of earth tones and shall be used on at least eighty-five percent (85%) of the building facade, exclusive of doors and windows.

b. Secondary accent color(s) may be used on a maximum of fifteen percent (15%) of the exterior facade, exclusive of doors and windows.

c. Trim colors shall complement the colors used to meet Subsection 2.a.

d. Colors shall be specifically approved on the building elevations submitted

and approved with the mandatory General Site Plan or Administrative Site Plan.

d. Roofs:

1. Flat roofs are prohibited.

2. Roofs shall have minimum slopes of seven (7) feet of rise for every twelve (12) feet of run (7:12).

3. Installed roofing shingles must consist of dimensional shingles with a minimum manufactures rating of thirty (30) years. Roofing systems or materials exceeding the standards established herein may be used pursuant to approval by the Building Official or his designee.

2. Lighting:

a. Lighting may be used to accent architectural details, emphasize primary entrances, accent signs, illuminate sidewalks, and illuminate parking areas and service entrances for public safety concerns. Lighting should meet the following criteria:

1. Light fixtures and light standards visible from a public street or public right-of-way shall be of an architectural design that is consistent with the architectural design of the primary structure and with the designs depicted in Appendix D.

2. A lamp that conveys the color spectrum that is similar to natural daylight is preferred. Metal halide and color-corrected sodium lamps are appropriate.

3. Installed light sources may not use the equivalent of more than 1,200 lumens per bulb and shall be installed in such a manner so as to be shielded from public view and mitigate glare and light spill.

4. There shall be no direct illumination of any residential use or zoning district adjacent to a proposed P/SP District development.

5. Lights shall be fully shielded to minimize light trespass onto any residential zoning district. “Fully shielded” means a technique or method of construction or manufacture that does not allow any light dispersion to shine above the horizontal plane from the lowest light-emitting point of the light fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

3. Open Storage: Except as otherwise permitted as a conditional use, open or outside storage is prohibited.

4. Trash Storage Areas and Mechanical Equipment:

a. All mechanical equipment, trash storage areas, and satellite dishes shall be fully screened from public view. This shall include equipment on the roof, ground or otherwise attached to the building or located on the site. The following standards shall be met:

1. Mechanical Equipment Screening:

a. Ground-Mounted Mechanical Equipment and similar items shall be fully screened from view.

2. Roof-Mounted Equipment:

   a. Mechanical equipment and similar items mounted to the roof of a structure shall be fully screened on four sides to a height equal to or greater than that of the mechanical equipment.

   b. The structural screen specified in Subsection ~~1. [~~a.~~]~~ above shall be of a design consistent with that of the primary structure and shall be of like and similar materials to those of the primary structure.

   c. Screening Elements Extending More than Five Feet (5') Above the Roof Elevation: Portions of screening elements that extend more than five feet (5') above the roof elevation shall be set back one foot (1') of height for every one foot (1') of height they exceed the roof elevation.

b. Trash Receptacle Screening:

   1. Trash receptacles shall not be placed between the primary structure and the street and shall not be located within a street yard.

   2. Trash receptacles shall be fully screened by an eight-foot (8') screen constructed of like and similar materials to those of the primary structure on three (3) sides and an opaque gate on one (1) side.

5. Loading and Service Areas:

   a. Loading and service areas shall be located at the side or rear of the primary structure.

   b. A minimum eight-foot (8') solid screening wall shall be required to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery from any public right-of-way. The screening wall shall be provided adjacent to any property zoned or planned for residential use as specified on the Town of Bartonville Comprehensive Plan, as amended. The screening wall shall screen each entire loading dock or space. Screening materials shall be of materials that are of like and similar materials to those of the primary structure.

   c. The accommodation of adequate access for service delivery trucks shall be evaluated to determine the extent of the screening required.

   d. Development shall comply with the on-site loading standards specified in Chapter 17 of this Ordinance.

6. Parking:

   a. Development shall comply with the on-site parking standards specific in Chapter 17 of this Ordinance.

   b. All parking shall be designed so as not to obstruct the passage of cars as well as emergency vehicles, delivery vehicles and service vehicles (i.e. garbage trucks).

7. Compatibility with Residential Uses:

   a. <u>Compatibility Buffer:</u>

1. A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to existing or proposed residential uses as specified on the Town of Bartonville Comprehensive Plan, as amended. Said landscape plan shall be subject to the following standards:

   a. The landscaped setback shall consist of a minimum twenty-five foot (25') landscape buffer. Understory plants of species included in the approved plant list contained in Chapter 31 shall be provided in order to achieve a continuous dense six-foot (6') screen.

   b. Native shade trees, a minimum of three inches (3") in trunk diameter as measured four feet (4') above the ground and of a species included in Chapter 31 shall be provided at a ratio of one (1) tree per four hundred (400) square feet of buffer area. Native shade trees shall not be planted closer than thirty feet (30') on center.

   c. A brick or masonry wall with stucco or mortar wash finish, both exterior finishes being the same, shall be constructed along the property line. Said wall shall be a minimum of six feet (6') in height, except that the first twenty-five feet (25') in from the street line may be stepped down to a minimum of four feet (4'). The Planning and Zoning Commission may approve alternative wall construction materials or wall placement on a site plan if the alternative accomplishes the same purpose.

D. Exception to Minimum Design Criteria:

~~1. Exceptions to the requirements for exterior construction materials as specified herein may be permitted on a case-by-case basis. All requests for alternative exterior building materials shall be noted and described on a site plan with elevation drawings to be submitted to the Town Council for approval after recommendation by the Planning and Zoning Commission. If requested by the Town, a sample of the material(s) proposed may be required to be submitted with the site plan.~~

~~2. Town Council may approve alternative exterior materials if it is determined to be equivalent or better than those materials specified by this Chapter.~~

~~3.~~1. Consideration for exceptions to the ~~exterior materials~~ minimum design requirements may be authorized to achieve the following:

   a. Architectural design and creativity - architectural variances may be considered to achieve a specific architectural theme or design that requires the use of alternative ~~materials~~ design requirements than those specified; or

   b. Compatibility with surrounding developed properties. (Ordinance 564-14, sec. 6, adopted 7/15/14)

§ 14~~A~~.4. SPECIAL REQUIREMENTS.

A. Driveway Spacing(distance between driveways, measured edge-to-edge):

1. Arterial street - One driveway per two hundred and fifty (250) linear feet of frontage.
2. Collector street - One driveway per one hundred (100) linear feet of frontage.
3. Local street - One driveway per fifty (50) linear feet of frontage.

4. Minimum distance from driveway to street corner - Fifty feet (50'), as measured from the street corner radius point of tangency.

B. Driveway Separation from Intersections (distance measured from the centerline of the rights -of-way to the pavement edge of the driveway):

1. Arterial street intersection with another street - Two hundred and fifty feet (250').

2. Collector street intersection with another street - One hundred feet (100').

3. Residential street intersection with another street - Fifty feet (50')

C. Site Plan Review -Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (in accordance with Chapter 3) shall be required for any tract/lot within the P/SP district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Town Council.

D. Building facade or elevation plans shall be submitted for review and approval along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Town may, as is deemed appropriate, require submission of additional information and materials such as actual samples of proposed exterior building materials during the Site Plan review process.

E. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

F. Maintenance Requirements for Common Areas -A property owners' association is required for continued maintenance of any common land and facilities provided within the development (see the Subdivision Ordinance for POA/HOA requirements).

G. Other Regulations -As established in the Special Requirements in Division IV.

H. Landscaping Requirements -See Chapter 18

I. Screening Requirements -See town code Chapter 3, article 3.10.

J. Open storage is prohibited[.]

(Ordinance 564-14, sec. 6, adopted 7/15/14; Ordinance 760-23 adopted 11/21/2023)

DIVISION III
OVERLAY DISTRICTS, PLANNED DEVELOPMENT OVERLAY DISTRICT AND CONDITIONAL USE PERMIT

CHAPTER ~~14B~~15
OVERLAY AND SPECIAL DISTRICTS[~~8~~]

§ ~~14B~~15.1. ~~[~~OVERLAY AND SPECIAL DISTRICTS.~~]~~

Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with the provisions of ~~Chapter 15~~this Chapter. New base districts or changes in existing base districts may be requested at the same time overlay or special prefix districts are requested.
(Ordinance 361-05 adopted 3/22/05)

~~**4. Editor's note Ord. 564-14 amended the zoning ordinance by adding a new chapter 14, "Public/Semi Public." The zoning ordinance already contained a chapter 14. The new provisions have been designated as chapter 14A and existing chapter 14 has been designated as chapter 14B.**~~

~~CHAPTER 15~~
~~(RESERVED)~~[9]

~~**Editor's note–Former chapter 15 pertaining to the planned development overlay district (PD) and deriving from Ordinance 361-05 adopted 3/22/05, was repealed and deleted in its entirety by Ordinance 600-16 adopted 3/15/16.**~~

CHAPTER 16
CONDITIONAL USE PERMIT (CUP)

§ 16.1. CONDITIONAL USE PURPOSE.

A. The purpose of a conditional use permit is to allow the establishment of uses which may be suitable only in certain locations in a zoning district or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are those uses that are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a particular zoning district shall be authorized as conditional uses. A conditional use permit may authorize variations from the standards in the zoning district only such as are necessary to meet the conditions attached to the permit.

(Ordinance 361-05 adopted 3/22/05)

§ 16.2. APPLICABILITY.

A. A conditional use permit is required to develop property within Town limits for any use designated as a conditional use in the Use Charts in Appendix ~~A~~ C of this Zoning Ordinance for the zoning district in which the property is located. The conditional use permit application must be accompanied by a site plan prepared in accordance with Chapter 3, as applicable.

(Ordinance 361-05 adopted 3/22/05)

§ 16.3. EXEMPTIONS AND EXCEPTIONS.

A. A conditional use permit shall not be required to develop property for any use designated as a permitted use in the Use Charts in Appendix C of this Zoning Ordinance for the zoning district in which the property is located, or any use authorized in a planned development PD district.

(Ordinance 361-05 adopted 3/22/05)

§ 16.4. OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION.

A. For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of a conditional use permit (that contains all elements and information required by this Ordinance) is submitted to the Town Secretary. No application shall be deemed officially submitted until the Town Secretary determines that the application is complete and a fee receipt is issued by the Town.

1. Conditional use permit applications that do not include all required information and materials (as outlined below and per other Town development review policies which may change from time to time) will be considered incomplete, shall not be accepted for official submission by the Town, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to the Town Secretary.

(Ordinance 361-05 adopted 3/22/05)

§ 16.5. SUPPLEMENTAL REQUIREMENTS.

A. The Town Secretary may require other information and data for specific conditional use permit applications. This data may include but is not limited to geologic information, water yields, flood data and/or hydrological studies, environmental information, traffic impact analysis, road

capacities, market information, economic data for the proposed development, hours of operation, and similar information. Approval of a site plan as required by this Chapter 16 may establish conditions for construction based upon such information.

(Ordinance 361-05 adopted 3/22/05)

§ 16.6. EFFECT OF APPROVAL.

A. Approval of a conditional use permit authorizes the use of the property in accordance with the conditions of the permit. Approval of a conditional use permit shall be deemed to authorize only the particular use for which the permit is issued. No conditionally permitted use shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new conditional use permit in accordance with the procedures set forth in this section. Development of the use shall not be authorized until the applicant has secured all the permits and approvals required by this Zoning Ordinance.

(Ordinance 361-05 adopted 3/22/05)

§ 16.7. PRIOR APPROVALS.

A. A conditional use permit shall not be approved unless the use is authorized in the zoning district in which the applicant's property is located and until a final subdivision plat that includes the lot for which the conditional use permit is sought has been approved.

(Ordinance 361-05 adopted 3/22/05)

§ 16.8. APPLICATION REQUIREMENTS.

A. Responsible Official -The Town Secretary shall be the official responsible for processing a conditional use permit application.

B. Contents -An application for approval of a conditional use permit shall contain the following information and documents:

1. An application for a Conditional Use Permit with notarized signatures of the owner or his/her designated representative if the applicant is not the owner of the subject property;

2. Application fee as established on the Town of Bartonville schedule of fees;

3. Verification that all taxes and assessments on the subject property have been paid;

4. Copies of the required plan(s), including all information specified by this Ordinance and any applicable sections of the Town of Bartonville Development Ordinance, on 24" x 36" sheet(s) drawn to a known engineering scale that is large enough to be clearly legible and other required information, the quantity of which shall be determined by the Planning Director, or his/her designee.

5. Reduced copies (11" x 17") of the required plan(s) as required by the Town Secretary.

6. Any additional information/materials (such as plans, maps, exhibits, legal description of property, information about proposed uses, etc.) as deemed necessary by the Town Secretary in order to ensure that the development request is understood.

7. A site plan prepared in accordance with Chapter 3, as applicable, and illustrating the following specific matters in addition to all other items to be shown as required by Chapter 3, as applicable:

a. The location of all structures on the subject property and on adjoining property;

b. Landscaping of yards and setback areas and proposed changes~~.[;]~~

c. Design of ingress and egress;

d. Off-street parking and loading facilities;

e. Height of all structures;

f. Proposed uses; and

g. The location and types of all signs;

8. All information and illustrations necessary to show the nature and effect of proposed variations to the standards in the zoning district.

(Ordinance 361-05 adopted 3/22/05; Ordinance 760-23 adopted 11/21/2023)

§ 16.9. PROCESSING OF APPLICATION AND DECISION.

A. Hearings -The Town Secretary shall schedule successive public hearings before the Planning and Zoning Commission and before the Town Council on the application for a conditional use permit. The hearings shall be conducted on the application in accordance with Appendix A of this Zoning Ordinance.

B. Commission's Action -Following the initial public hearing, the Commission shall make its recommendation to the Town Council for approval, approval with modifications or denial of the application for a conditional use permit. The Commission also shall recommend whether any requested variations from the standards in the zoning district regulations should be granted.

C. Council Decision -Upon receipt of the Commission's recommendation, the Town Council shall approve, approve with modifications, or deny the application. The Council also shall decide whether to grant any requested variations from the standards in the zoning district regulations.

D. No Variances -The conditions imposed on the application shall not be subject to variances that otherwise could be granted by the Board of Adjustment, nor may conditions imposed by the Town Council subsequently be waived or varied by the Board of Adjustments~~[.]~~

(Ordinance 361-05 adopted 3/22/05)

§ 16.10. CRITERIA FOR APPROVAL.

A. Factors -When considering applications for a conditional use permit, the Commission and the Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and neighborhoods to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on-site or within the

public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

5. The proposed use incorporates roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and

7. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

B. Conditions -The Commission may recommend and the council may require such modifications in the proposed use and attach such conditions to the conditional use permit as are necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions include but are not limited to matters related to limitation of building size or height, increased open space, increased impervious surface, enhanced loading and parking requirements, additional landscaping and improvements including curbing and pedestrian amenities, vehicular access and parking, placement or orientation of buildings and entryways, bufferyards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.

C. The Town Secretary shall maintain a file for each CUP approved by the Town Council. (Ordinance 361-05 adopted 3/22/05)

§ 16.11. EXPIRATION AND REVOCATION.

A. Time of Expiration -A conditional use permit shall expire if:

1. A building permit for the use has not been approved within one (1) year of the date of approval of the permit;

2. The building permit subsequently expires;

3. The use has been discontinued or abandoned for a period exceeding six (6) months; or

4. A termination date attached to the permit has passed.

B. Revocation -The Town Council may revoke any conditional use permit that is in violation of any condition imposed on the use following personal notice to the permit holder or property owner and a public hearing to determine whether the use should be revoked.
(Ordinance 361-05 adopted 3/22/05)

§ 16.12. ABANDONMENT OF CONDITIONAL USE.

A. In determining whether a conditional use has been discontinued or abandoned, the Town shall apply the standards in Section 1.11 of this zoning ordinance applicable to a nonconforming use.
(Ordinance 361-05 adopted 3/22/05)

DIVISION IV
SPECIAL REQUIREMENTS

CHAPTER 17
OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 17.1. PURPOSE.

To secure safety from fire, panic, and other dangers; to lessen congestion on public streets; to facilitate the adequate provision 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 schedules and provisions.
(Ordinance 361-05 adopted 3/22/05)

§ 17.2. RESIDENTIAL DISTRICTS - SPECIAL OFF-STREET PARKING PROVISIONS.

A. Required off-street parking shall be provided on the same lot/site as the use it is to serve.

B. All vehicle parking areas shall be on an improved, dust-free surface installed to meet or exceed Town standards for paving, parking and on-site circulation. All driveways and approaches to parking spaces shall be similarly improved.

C. No required parking space, garage, carport, or other motor vehicle storage space shall be used for the storage of any heavy load vehicle (see definitions for heavy load vehicle).

(Ordinance 361-05 adopted 3/22/05)

§ 17.3. NONRESIDENTIAL DISTRICTS AND NONRESIDENTIAL USES IN RESIDENTIAL DISTRICTS - SPECIAL OFF-STREET PARKING PROVISIONS.

A. To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in Chapter 28.

B. For safety and firefighting purposes and for public convenience, free mutual access through to adjacent nonresidential parking areas and properties shall be provided in accordance with Section
17.10 (Fire Lanes).

C. All off-street parking, maneuvering, fire lane, loading and storage areas shall be paved in accordance with the Town's current technical design standards in Appendix F, Off-Street Parking Technical Design Standards.

D. No paved parking space or area shall be designed such that a vehicle has to back up into a public street or across a public walkways, except for single-family dwellings, which are only allowed to egress onto a local street or residential collector street.

E. All parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

F. Each standard off-street surface parking space size shall be in accordance with the design standards as shown in Appendix B, Illustration 2 ~~[in Appendix B]~~ for space design only.

Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas shall be in accordance with the following minimum sizes:

1. Standard: Ten feet (10') by twenty feet (20') - eighteen-foot (18') length is allowed provided that the parking space has a two-foot (2') clear bumper overhang area that does not encroach upon a public right-of-way, a sidewalk of less than six feet (6') in width, or adjacent property.

2. Compact: Eight feet (8') by sixteen feet (16'); must be clearly designated with appropriate signage and pavement markings. The use of compact spaces shall be limited to ten percent (10%) of the standard parking requirement.

3. Parallel: Eight feet (8') by twenty-two feet (22').

G. The perimeter of all parking lots and driveways shall be provided with concrete curbs or other means to control traffic. All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device, such as a curb or wheel stop, installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public and/or private utility structures/facilities, and to prevent parked vehicles from overhanging a public right-of-way line or adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot (4') minimum walkway width. ~~Parking~~ Off-street parking shall not be permitted to encroach upon the public right-of-way or upon neighboring property in any case. All vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within the parking lot. All entrances into parking lots shall be at least twenty-four feet (24') in width, or a maximum of forty-five feet (45') in width (fifty feet for divided entrances). Divided entrances into parking lots shall have a minimum ingress lane of eighteen feet (18'); a minimum landscaped median width of five feet (5') for an unbroken distance of at least one hundred feet (100') into the site, and a minimum egress lane of twenty-two feet (22'). If the entrance is for a fire lane, then it shall have twenty-four~~two~~ foot (2~~2~~4') minimum ingress and egress lanes (same median standards as above).

H. Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and ease of egress from the site without having to back up further than twenty feet (20') and without having to go the wrong way in a traffic aisle.

I. Parking space(s) for persons with disabilities and other associated provisions shall be provided according to building codes, State laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the main entrance of the building, and shall be appropriately and clearly marked.

J. In all nonresidential categories, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing of vehicles or equipment, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas.

K. To ensure that all requirements set forth in this Section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of a revised site plan (see Chapter 3).

L. Off-street stacking requirements for drive-through facilities:

1. A stacking space shall be an area on a site measuring eight feet (8') by twenty feet (20') with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area. An escape lane, of at least eight (8) feet in width and with negotiable geometric design, must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency, accidental entry, etc.

2. For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five (5) stacking spaces. One escape lane shall be provided.

3. For business operations other than those addressed by item 2. above and kiosks that provide drive-up service, a minimum of three (3) stacking spaces for each service window shall be provided.

4. For a full-service carwash, each vacuum or gas pump lane shall be provided with a minimum of four (4) stacking spaces. For the finish/drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes, streets, etc.

5. For each automated self-service (drive-through/rollover) carwash bay, a minimum of three (3) stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing.

6. For each wand-type self-service carwash bay, a minimum of two (2) stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing, unless a separate area/ shade structure is provided (outside of circulation aisles) for these activities.

7. For motor vehicle quick-lube type facilities, a minimum of three (3) stacking spaces shall be provided for each service bay in addition to the service bay itself.

8. For coffee shop, dry cleaning store, pharmacy, a minimum of five (5) stacking spaces shall be provided.

9. For Restaurant (with Drive-Through), a minimum of five (5) stacking spaces shall be provided.

M. Dead-end parking areas shall be avoided if possible. If dead-end parking is necessary, then it shall be designed such that it is no more than three (3) parking spaces deep unless adequate turnaround space is provided. A minimum five-foot (5') deep hammerhead back-up space shall be provided at the end of any dead-end parking area.

N. All parking structures must conform to the construction and design standards of the zoning district in which they are located.

(Ordinance 361-05 adopted 3/22/05; Ordinance 451-08, sec. 2, adopted 5/20/08; Ordinance 655-19, sec. 2, adopted 4/16/19; Ordinance 660-19, sec. 4, adopted 6/18/19; Ordinance 718-21 adopted 10/19/21)

§ 17.4. OFF-STREET LOADING SPACE - ALL DISTRICTS.

A. All retail and other nonresidential structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks off-street. Each site shall provide a designated on-site maneuvering area for trucks (see Appendix B, Illustration 3 ~~[in Appendix B]~~). Such off-street loading space may be adjacent to (but not any portion of) a public or private service drive, or it may consist of a truck berth within the structure. The minimum dimensions of a "regular" loading space shall be ten feet by thirty feet (10' x 30'), and a "large" loading space shall be at least ten feet by sixty-five feet (10' x 65'). Loading spaces or berths shall be provided in accordance with the following schedule:

1. Office and institutional uses, or portion(s) of building devoted to office/institutional uses:

0 to 19,999 square feet:	0 spaces
20,000 to 49,999 square feet:	1 regular space
50,000 to 149,999 square feet:	1 regular space and 1 large space
150,000+ square feet:	2 regular spaces and 1 large space

2. Retail/commercial and restaurant uses, or portion(s) of building devoted to retail/ commercial and restaurant uses:

0 to 3,999 square feet:	0 spaces
4,000 to 9,999 square feet:	1 regular space
10,000 to 29,999 square feet:	1 regular space and 1 large space
30,000 to 99,999 square feet:	2 regular spaces and 1 large space
100,000 to 200,000 square feet:	2 regular spaces and 2 large spaces
Each additional 100,000 square feet, or portion thereof, over 200,000:	1 additional large space

B. Loading docks for any establishment which customarily receives goods between the hours of 9:00
p.m. and 8:00 a.m. and is located within one hundred (100) feet a residential use or district shall be designed and constructed so as to enclose the loading operation on at least three sides in order to reduce the effects of the noise of the operation on adjacent residences. Other screening/ buffering alternatives may be approved on the site plan provided that the Town Council makes a finding that the alternative method of screening/buffering will be adequate to protect nearby residences.

C. Public, private, or parochial elementary and secondary schools shall provide one (1) paved off-street pedestrian loading and unloading space for ~~an [~~a~~]~~ motor vehicle on a through, "circular" drive for each ten (10) students cared for (excluding child care in a residence). An additional lane shall also be required to allow pass-by or through traffic to move while motor vehicles waiting or parked to pick up children occupy loading/unloading areas.

D. Loading spaces that are adjacent and easily accessible to several buildings or uses, including buildings and uses on separate lots, shall be allowed to satisfy the loading requirements for the individual buildings or uses, subject to the following:

1. Such arrangement(s) for loading spaces are approved by the Town Council after recommendation by the Planning and Zoning Commission;

2. Said consideration by the Planning and Zoning Commission and Town Council shall be based on the following criteria:

a. The number of spaces satisfies the requirements for the combined square footages for the buildings or uses in question;

b. Any off-site loading berths shall be located on an immediately contiguous lot or tract, or on a lot or tract within two hundred (200) feet of each building or use in which it will serve; and

c. A long-term remote loading lease agreement is provided upon approval of the Town as a condition of such use.

(Ordinance 361-05 adopted 3/22/05; Ordinance 451-08, sec. 1, adopted 5/20/08)

§ 17.5. PARKING ACCESS FROM A PUBLIC STREET - ALL DISTRICTS.

A. In the approval of a site plan, design consideration shall be given to providing entrance/exit drives that extend into the site to provide adequate queuing of vehicles on the site.

B. In all districts (except single-family), the site plan and paving plans shall provide for entrance/exit drive(s) appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets. Based upon analysis by the Town, if projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and/or street paving improvements in the form of a deceleration lane, a turn lane, or other roadway improvements may be required of a developer in order to reduce such interference and to help ensure traffic safety and efficiency. The dedication of additional right-of-way or street paving may also be required, and shall be determined at the time of site plan and construction plat approval.

C. Vehicular access to nonresidential uses shall not be permitted from alleys serving residential areas, and shall not be configured as "head-in" parking spaces that are accessed directly from the street.

D. Parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to Appendix B, Illustration 2. ~~[in Appendix B].~~

(Ordinance 361-05 adopted 3/22/05)

§ 17.6. PARKING REQUIREMENTS BASED UPON USE.

A. In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements:

1. Art gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the

total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains.

2. Bank, savings and loan, or similar institution: One (1) space per two hundred and fifty (250) square feet of gross floor area in addition to required stacking spaces (see Subsection ~~38.3 K. [~~17.3 L.~~]~~).

3. Bed and breakfast facility: One (1) space per guest room in addition to the requirements for a normal residential use.

4. Bowling alley or center: Six (6) parking spaces for each alley or lane.

5. Business or professional office (general): One (1) space per three hundred (300) square feet of gross floor area, except as otherwise specified herein.

6. Church, rectory, or other place of worship: One (1) parking space for each three (3) seats in the main auditorium/sanctuary.

7. Commercial amusement (indoor): One (1) space per one hundred (100) square feet of gross floor area, or as follows:

a. Racquetball or handball courts - Three (3) spaces for each court.

b. Indoor tennis courts - Six (6) spaces for each court.

c. Gymnasium, skating rinks, and martial arts schools - One (1) space for each three (3) seats at a maximum seating capacity (based upon maximum occupancy), plus one (1) space for each two hundred (200) square feet.

d. Swimming pool - One (1) space for each one hundred (100) square feet of gross water surface and deck area.

e. Weight lifting or exercise areas - One (1) space for each one hundred (100) square feet.

f. Indoor jogging or running tracks - One (1) space for each one hundred (100) linear feet.

g. Motion picture theaters (which do not include live performances): a) one (1) space per three and one-half (3.5) seats for single-screen theaters; b) one (1) space per five (5) seats for motion picture theaters with two (2) or more screens.

h. Amusement Center - One (1) space for each game table and one (1) space for each amusement device.

i. All areas for subsidiary uses not listed above or in other parts of this Section (such as restaurants, office, etc.), shall be calculated in with the minimum specified for those individual uses.

8. Commercial amusement (outdoor): Ten (10) spaces plus one (1) space for each five hundred (500) square feet over five thousand (5,000) square feet of building and recreational area.

9. Convenience store (with gasoline pumps): One (1) space per two hundred (200) square feet of floor area, plus one (1) parking space for each side of a gasoline pump unit (a unit may

have up to six (6) nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. If no gasoline sales are provided, then the parking requirements shall be the same as for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering motor vehicles for refueling.

10. Day nursery, day care center: One (1) space per ten (10) pupils (based upon maximum

occupancy and/or licensing capacity), plus one (1) space per teacher, plus one (1) space for each bus or van stored on the property (and sized to accommodate the vehicle).

10a. Farmers' Market: One and one-half (1-1/2) spaces per designated booth space or one per one hundred (100) square feet of site area, whichever is greater.

11. Furniture or appliance store, hardware store, wholesale establishments, clothing or shoe repair or service: Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000) square feet.

12. Health club, health spa or exercise club: One (1) space per one hundred fifty (150) square feet of floor area.

13. Lodge or fraternal organization: One (1) space per two hundred (200) square feet.

14. Manufactured/mobile home or manufactured/mobile home park: Two (2) spaces for each manufactured/mobile home unit, plus visitor/supplemental parking equal to one-half space per lot, plus additional spaces as required herein for accessory uses.

15. Medical or dental office: One (1) space per one hundred and fifty (150) square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.

16. Mini-warehouse: Four (4) spaces per establishment, plus two (2) spaces for an on-site manager's residence (if applicable), plus one (1) appropriately sized space for any type of vehicle to be stored on-site (e.g., rental trucks, boats, RVs, etc.).

17. Mortuary or funeral home: One (1) parking space for each two hundred (200) square feet of floor space in viewing rooms, parlors or individual funeral service rooms, or one (1) space for each three (3) seats in the auditorium/sanctuary, whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion/delays on a public roadway.

18. Motor vehicle or auto parts sales (indoors): One (1) space per five hundred (500) square feet of indoor floor area, plus one (1) space for each two thousand (2,000) square feet of outside sales area.

19. Office (administrative or professional): One (1) space for each three hundred (300) square feet of floor area.

20. Pawn shop: One (1) space for each two hundred (200) square feet of floor area.

21. Places of public assembly not listed: One (1) space for each three (3) seats provided (see Subsection ~~38.7 B. [~~17.7 B.~~]~~).

22. Real estate office: One (1) space for each two hundred (200) square feet.

23. Restaurant, private club, nightclub, cafe or similar recreation or amusement establishment: One (1) parking space for each one hundred (100) square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one (1) space for every three (3) seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/ provided for drive-through or drive-in facilities.

24. Retail or personal service establishment, except as otherwise specified herein: One (1) space per two hundred (200) square feet of gross floor area in addition to any required stacking spaces for drive-through facilities.

25. Retirement housing for the elderly (independent living): One and one-half (1.5) spaces for each dwelling unit, plus any additional spaces for accessory retail, office, service or recreational uses.

26. School, elementary (grades K-6): One (1) parking space for each fifteen (15) students (design capacity).

27. School, secondary or middle (grades 7-8): One (1) parking space for each twelve (12) students (design capacity).

28. School, high school (grades 9-12): One space for each three (3) students, faculty and staff (design capacity).

29. Technical School, College, Junior College or University: One (1) space per three (3) students, based upon maximum enrollment or design capacity, whichever is greater.

30. Theater, indoor or outdoor (live performances), sports arena, stadium, gymnasium or auditorium (except school auditorium):One (1) parking space for each three (3) seats or bench seating spaces.

31. Veterinarian clinic: One (1) space per three hundred (300) square feet of gross floor space.

(Ordinance 361-05 adopted 3/22/05; Ordinance 418-07, sec. 2, adopted 3/20/07)

§ 17.7. RULES FOR COMPUTING NUMBER OF PARKING SPACES AND MISCELLANEOUS OFF-STREET PARKING REQUIREMENTS.

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

A. "Floor Area" shall mean the gross floor area of the conditional use.

B. "Seat" shall be interpreted as follows:

1. For fixed (e.g., church pews, grandstands, benches, etc.) seating, one seat equals 1.75 feet of length; and

2. For flexible (e.g., folding chairs, etc.) seating areas, one seat equals eight (8) square feet of floor area occupied by such seating area (includes aisles).

C. Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.

D. The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be made by the Town Secretary, or his/her designee, in accordance with the requirements for the most closely related use specified in this Section. In the event the applicant disagrees with this determination, then he/she may submit a request for determination by the Planning and Zoning Commission and the Town Council using the same process for classifying new and unlisted uses.

E. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. If a building or use that was in existence prior to the effective date of this Ordinance is enlarged by more than fifty percent (50%) in floor area, number of employees, number of dwelling units, seating capacity or otherwise, then said building or use shall be required to conform with the parking requirements herein for the entire building or use.

F. For buildings which have a combination of uses within the same structure or on the same premises (such as retail or office), the off-street parking requirement shall be calculated as the summation of the parking requirements for each use, and no parking space for one particular use shall be allowed to count toward the parking requirement for some other use on the premises except in the case of a shared parking arrangement (see Subsection G. below).

G. Shared parking may be allowed in the case of mixed uses (different buildings) under the following conditions: Up to fifty percent (50%) of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours. Shared parking must be on the same parking lot. Reduction due to shared parking shall only be allowed if approved on the site plan. To assure retention of the shared parking spaces, each property owner shall properly draw and execute an irrevocable mutual parking agreement document expressing the same, shall file this agreement with the County, and shall provide a copy of the filed agreement to the Town of Bartonville prior to issuance of a certificate of occupancy for any use that relies upon the parking agreement.

(Ordinance 361-05 adopted 3/22/05)

§ 17.8. LOCATION OF PARKING SPACES.

All parking spaces required herein shall be located on the same lot of the building or use served, except as follows:

A. Where an increase in the number of spaces is required by a change or enlargement of an existing use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required additional spaces may be located not to exceed three hundred (300) feet from any nonresidential building served.

B. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the Planning and Zoning Commission and the Town Council is required according to the following criteria:

1. Off-site parking may be permitted on an immediately contiguous lot or tract or on a lot or tract within two hundred feet (200') of such building or structure providing:

a. That a permanent, irrevocable easement of the parking facilities in favor of the premises to be benefited shall be dedicated and recorded as a condition of such use; or

b. That a long-term remote parking lease agreement be provided upon approval by the Town as a condition of such use.

(Ordinance 361-05 adopted 3/22/05)

§ 17.9. USE OF REQUIRED PARKING SPACES, NONRESIDENTIAL DISTRICTS.

A. Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures, storage or permanent display of boats, trailers, campers, motor vehicles or other goods, materials, or products for sale/lease/rent.

(Ordinance 361-05 adopted 3/22/05)

§ 17.10. FIRE LANES.

A. Fire lanes shall be provided in all nonresidential developments (in all zoning districts), as required by the adopted Fire Code of the Town (also see the Development Ordinance for certain fire lane regulations). Fire lanes shall be a minimum width of twenty-four feet (24') of paving, and shall have a minimum inside turning radius at curves of twenty feet (20') or as required by the Fire Code of the Town of Bartonville, whichever is greater. The minimum overhead vertical clearance over fire lanes shall be fourteen feet (14') for a linear distance of fifty feet (50') on each side (i.e., in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure (e.g., canopy, roof overhang, vertical height control device, etc.).

B. Whenever forty percent (40%) or more of an existing, nonconforming fire lane is replaced or resurfaced within a twelve (12) month period, the entire fire lane shall be replaced according to the Town's current paving standards.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 18
LANDSCAPE REQUIREMENTS

§ 18.1. PURPOSE.

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the Town. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area that, 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.
(Ordinance 361-05 adopted 3/22/05)

§ 18.2. SCOPE AND ENFORCEMENT.

The standards and criteria contained within this Section are deemed to be minimum standards and shall apply to all new construction or any construction that increases the existing square footage of a structure by more than thirty percent (30%). Additionally, any use requiring a Conditional Use Permit or a PD zoning designation must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the CUP or PD district. The provisions of this Section shall be administered and enforced by the Town Secretary, or his/her designee. The landscape standards in this Section apply to nonresidential developments (including uses such as schools and churches within a residential zoning district).

If at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be not in conformance with the standards and criteria of this Section, the Town Secretary, or his/her designee, shall issue notice to the owner, citing the violation and describing what action is required to comply with this Chapter. The owner, tenant or agent shall have thirty (30) days from date of said notice to establish/restore the landscaping, as required. If the landscaping is not established/restored within the allotted time, then such person shall be in violation of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

§ 18.3. PERMITS.

No permits shall be issued for building, paving, grading or construction until a detailed landscape plan is submitted and approved by the Town, along with the site plan and engineering/construction plans. A landscape plan shall be required as part of the site plan submission, as required in Chapter 3. The landscape plan may be shown on the site plan (provided the site plan remains clear and legible) or may be drawn on a separate sheet. Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan.

In any case in which a certificate of occupancy is sought at a season of the year in which the Town, determines that it would be impractical to plant trees, shrubs or ground cover, or to successfully establish turf areas, a temporary certificate of occupancy may be issued provided a letter of agreement from the property owner is submitted that states when the installation shall occur. All landscaping required by the landscaping plan shall be installed within six (6) months of the date of the issuance of the temporary certificate of occupancy.
(Ordinance 361-05 adopted 3/22/05)

§ 18.4. LANDSCAPE PLAN.

Landscape plans shall be prepared by persons knowledgeable in plant material usage and landscape design (e.g., landscape architect, landscape contractor, landscape designer, etc.) and shall contain the following minimum information:

A. Minimum scale of one inch (1") equals fifty feet (50') or other such scale as approved by the Town Secretary, or his/her designee; show scale in both written and graphic form.

B. Location, size and species of all trees to be preserved (do not use "tree stamps" unless they indicate true size and location of trees).

C. Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), topography of site, or other landscape features.

D. Species and common names of all plant materials to be used.

E. Size of all plant material to be used (container size, planted height, etc.).

F. Spacing of plant material where appropriate.

G. Note on the face of the landscape plan stating that all landscaped areas will be irrigated with a below-ground, mechanical irrigation system meeting the minimum standards of Section 18.9.

H. Description of maintenance provisions.

I. Name and address of the person(s) responsible for the preparation of the landscape plan.

J. North arrow/symbol, and a small map showing where the property is located.

K. Date of the landscape plan. (Ordinance 361-05 adopted 3/22/05)

§ 18.5. GENERAL STANDARDS.

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

A. All non-paved surfaces shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may be used under trees, shrubs and other plants, but shall not comprise a significant portion of the total landscaped area. This requirement shall not apply to public or private playgrounds built in association with any nonresidential or park use.

B. Plant materials shall conform to the standards of the approved plant list for the Town of Bartonville (see Chapter 31 for the approved plant list) and the current edition of the "American Standard for Nursery Stock" (as amended), published by the American Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

C. Native overstory trees required pursuant to this Chapter 18 shall meet the following minimum criteria:

   1. An average crown spread of greater than fifteen feet (15') at maturity. Trees having a lesser average mature crown of fifteen feet (15') may be substituted by grouping the same so as to create the equivalent of fifteen feet (15') of crown spread.

2. A minimum trunk diameter of three inches (3") (measured forty-eight (48") inches above the ground) and seven feet (7') in height at time of planting.

3. All new trees shall be provided with a permeable surface under the drip line a minimum of five feet (5') by five feet (5').

4. All trees shall be in containers or "Balled and Burlapped" at the time of installation.

D. Understory/ornamental trees required pursuant to this Chapter 18 shall meet the following minimum criteria:

1. A minimum of one and one-half inch (1.5") (measured forty-eight (48") inches) and five feet (5') in height at time of planting.

2. All new trees shall be provided with a permeable surface under the drip line a minimum of five feet (5') by five feet (5').

E. Shrubs required pursuant to this Chapter 18 shall meet the following minimum criteria:

1. Shrubs variety shall be a minimum of five (5) gallons and two feet (2') in height when measured immediately after planting.

2. Hedges, where installed for buffering purposes, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be at least six feet (6') high within three (3) years after time of planting (except for parking lot/headlight screens, which shall form a continuous, solid visual screen three feet high within two years after planting).

F. Decorative fencing required pursuant to this Chapter 18 shall meet the requirements of town code Chapter 3, article 3.10.

~~F1~~G. Vines not intended as ground cover shall be a minimum of two feet (2') in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.~~10~~

H. Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod shall be used in swales, earthen berms or other areas subject to erosion.

I. 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 completed coverage within one (1) year of planting.

J. All landscaped areas shall be equipped with an automatic, underground irrigation system with freeze and moisture sensors to prevent watering at inappropriate times. Landscaped areas having less than ten (10) square feet in area may be irrigated by some other inconspicuous method. If appropriate xeriscape planting techniques are utilized, the Town Council may waive the requirement for an underground irrigation system at the time of site plan approval. However, the landscaping shall be required to be maintained in a healthy, living and growing condition, and any irrigation devices shall not be visible from public streets or walkways.

K. Earthen berms shall have side slopes not to exceed 33.3 percent (three feet (3') of horizontal distance for each one foot (1') of vertical height). All berms shall contain necessary drainage provisions as may be required by the Town's Engineer.

L. The planting requirements specified herein shall not be cumulative and planting materials required to meet one section of the ordinance may be credited toward the requirements to meet other sections of the ordinance. For example, tree plantings required to meet the bufferyard standards may also be credited toward the tree planting requirements for the perimeter planting requirements for off-street parking and vehicular use areas.

~~5.~~3. ~~Editor's note—Renumbered for sequence.~~
(Ordinance 361-05 adopted 3/22/05; Ordinance 760-23 adopted 11/21/2023)

§ 18.6. MINIMUM LANDSCAPING REQUIREMENTS FOR NONRESIDENTIAL DEVELOPMENTS.

A. The following percentages of landscaping coverage are the minimum required for all properties that are subject to this Section.

B. Landscaped areas include all areas that are planted. Areas that are retained in a natural state may be included, if they are comprised of native or non-invasive species and are maintained in a weed-free condition.

C. Tree canopy is measured by computing the area that the mature canopy will encompass, based on the standard tree list in Chapter 31. Mature canopies shall be estimated for existing trees on-site. Any tree not on the Tree List shall be estimated by use of the American Standards for Nursery Stock.

D. Landscaping in the adjacent public right-of-way may be counted toward meeting the overall landscaping requirements on a case-by-case basis, if approved by the Town Council.

E. The percentages specified in this section are the minimum required. At times, more landscaping or tree canopy will be required to meet the needs of the other sections of the landscaping standards, such as screening or parking areas, landscaping of setback areas, and providing usable outdoor space.

F. With the exception of athletic fields, golf courses, and playgrounds, all areas, which are not used for building or parking, are required to be landscaped, and where adequate room exists, all landscaped areas are required to contain trees.

G. Landscaping design shall include a variety of deciduous and evergreen trees and shrubs and flowering plant species well adapted to the local climate.

H. Street Trees: All development fronting on public or private streets shall be required to plant street trees in accordance with the following standards. The Town Secretary, or his/her designee, may approve alternative plans due to special conditions, which may, for reasons such as safety, affect the ability to meet these standards:

1. Street trees shall be located between the street and sidewalk, except in cases where there is a designated planting strip in the right-of-way, or the sidewalk is greater than eight (8) feet wide and designated to accept trees in tree wells.

2. Spacing, Placement, and Pruning of Street Trees:

a. Street trees shall be planted at the rate of one (1) tree for every thirty (30) feet, or major fraction thereof, of street frontage. Street trees shall be planted at a regular interval along the street frontage, and shall be of the same species within any specific block.

b. Street trees shall not be planted closer than twenty-five (25) feet from the curb line of intersections of streets and no closer than ten (10) feet from private driveways, fire hydrants or utility poles.

c. Street trees shall not be planted closer than twenty (20) feet to light standards. Except for public safety, no new light standard location shall be positioned closer than ten (10) feet to any existing street tree, and preferably such locations will be at least twenty
(20) feet distant.

d. Street trees shall not be planted closer than six (6) feet from the face of the curb except at intersections where it shall be five (5) feet from the curb in a curb return area.

e. Where there are overhead power lines, tree species are to be chosen that will not interfere with those lines.

f. Street trees shall not be planted within four (4) feet of any permanent hard surface paving or walkway. Cuts in concrete for street trees shall be at least sixty-four (64) inches; however, larger cuts are encouraged because they allow additional air and water into the root system and add to the health of the tree. Space between the tree and the hard surface may be permeable, non-permanent hard surfaces such as iron grates, bricks on sand, or paver blocks.

3. Existing trees may be used as street trees if there will be no damage from the development that will kill or weaken the tree.

4. Street trees shall be maintained by the adjoining property owner.

5. Street trees shall include irrigation, root barriers, and generally conform to the standards established by the Town of Bartonville.

I. Bufferyards: Bufferyards shall be required in accordance with this Section to separate different land uses from each other and to eliminate or minimize potential nuisances such as dirt, litter, noise, glare, signs, and unsightly buildings or parking areas, or to provide spacing to reduce the adverse impacts of noise, odor or danger from fire or explosions. Both the amount of land and the type and amount of planting and specified structures for each bufferyard are designed to lessen nuisances between adjacent land uses or between a land use and a public road.

1. Screening Between Residential and Nonresidential Uses -Screening shall be located on the site of the nonresidential use along all property lines adjacent to an existing residential use, residential zoning district or a planned residential area as designated on the Bartonville Land Use Plan, as amended, subject to the following standards:

a. Masonry Wall -A brick or masonry wall with stucco or Mortar wash finish, both exterior finishes being the same, shall be constructed parallel to each property line abutting a residential use. Said wall shall be located ten feet (10') from the property line. Such walls may have one (1) access point for maintenance per one hundred
(100) linear feet of wall distance for maintenance of landscaping and shall be a minimum of six feet (6') in height and a maximum of eight feet (8') in height, except that the first twenty-five feet (25') in from the street right-of-way may be stepped down to a minimum height of four feet (4').

b. Landscaped Edge -A landscaped edge shall be installed and maintained in a healthy condition running the length of the residential side of any masonry wall as specified in Subsection a. above. Said landscaped edge shall require the following minimum planting materials:

1. Overstory trees of a species specified by Chapter 31 of this Ordinance shall be installed at a minimum ratio of one (1) tree per fifty (50) linear feet.

2. That portion of the landscape edge not occupied by other plant materials as specified in items 1 above shall be covered in a ground cover material as specified in Chapter 31 of this ordinance.

c. The Planning and Zoning Commission shall have the authority to approve alternate equivalent screening materials or methods including, but not limited to, living screens on the site plan (if prepared in accordance with Chapter 3). The Planning and Zoning Commission shall also have the authority to approve alternate locations of any screening wall. In no case shall a masonry wall be located less than five feet (5') or more than ten feet (10') from the property line.

2. Landscape Buffer between Nonresidential Uses -A landscape buffer shall be located on the site of the nonresidential use along all property lines adjacent to another existing nonresidential use, nonresidential zoning district or planned nonresidential area as designated on the Bartonville Land Use Plan, as amended, subject to the following standards:

a. Landscaped Edge -A landscaped edge of a minimum width of five feet (5') shall be installed along the property line. Said landscaped edge shall require the following minimum planting materials:

1. Overstory trees of a species specified by Chapter 31 of this Ordinance shall be installed at a minimum ratio of one (1) tree per fifty (50) linear feet of property line with fractions being rounded to the next whole number.

2. Understory trees of a species specified by Chapter 31 of this Ordinance shall be installed at a minimum ratio of three (3) trees per fifty (50) linear feet of property line with fractions being rounded to the next whole number.

3. Shrubs of a species specified by Chapter 31 of this Ordinance shall be installed at a minimum ratio of six (6) shrubs per one hundred (100) linear feet of property line with fractions being rounded to the next whole number.

4. That portion of the landscape edge not occupied by other plant materials as specified in items 1 through 3 above shall be covered in a ground cover material as specified in Chapter 31 of this ordinance.

J. Minimum Requirements for Off-Street Parking and Vehicular Use Areas: Parking lots, [and] vehicular use areas for developments within all the nonresidential zoning districts are to be effectively screened from the public view and adjacent property. Both the interior and perimeter of such areas shall be landscaped in accordance with the following criteria. Areas used for parking or vehicular storage which are under, on, or within buildings are exempt from these standards.

1. Interior Landscaping -A minimum of ten (10) percent of the gross parking areas shall be devoted to living landscaping that includes grass, ground cover, plants, shrubs, and trees.

Gross parking area is to be measured from the edge of the parking lot and/or driveway paving and sidewalks. The following additional criteria shall apply to the interior of parking lots.

a. Interior landscape areas shall be protected from vehicular encroachment or overhang through appropriate wheel stops or curbs.

b. There shall be a minimum of one (1) native overstory tree planted for each four hundred (400) square feet or fraction thereof of required interior landscape area.

c. Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Planter islands must be located no further apart than every twelve (12) parking spaces and at the terminus of all rows of parking. Such islands shall contain at least one (1) overstory tree. Planter islands shall not be required for lots containing less than thirty-five thousand (35,000) square feet. The remainder shall be landscaped with shrubs, lawn, ground cover, and other appropriate material not to exceed three (3) feet in height at maturity. Interior planter islands shall have a minimum size of sixteen (16) square feet and a minimum width of eight (8) feet as measured from back-of-curb to back-of-curb or nine (9) feet from edge-of-pavement to edge-of-pavement if constructed without curbs.

d. The Town may approve planter islands required by Section 18.6 J.1.c. above to be located further than apart than twelve (12) parking spaces in order to preserve existing trees in interior parking areas. Off-street parking and drive areas located within the drip line of a tree shall be paved with permeable material approved by the Town when the drip line of an existing tree is larger than the planter islands required by Section
~~18.5 C.3 [~~18.~~6~~ 6.J.1.c~~]~~.

2. Perimeter Landscaping -All parking lots and vehicular use areas located between a primary structure and a public right-of-way shall be screened from all public rights-of-way with a landscape barrier. Plants and materials used in the landscaped strip shall meet the minimum specifications as established in Section 18.5.

Perimeter landscaping shall be designed to screen off-street parking areas and other vehicular use areas, except for driveways that provide direct connection to a public right-of-way, from public rights-of-way. Said perimeter landscaping shall include the following:

a. Whenever an off-street parking area or vehicular use area is located between a primary structure and a public right-of-way, a perimeter landscape area of at least fifteen (15) feet in depth shall be maintained between the abutting public right-of-way and the off-street parking or vehicular use area. An appropriate landscape screen or barrier shall be installed in this area and the remaining area shall be landscaped with materials as specified in b. and c. below.

b. The following planting materials shall be required within a landscape barrier as specified herein. Plant materials as required for the mandatory bufferyards required by Section 18.6 may be counted toward the perimeter landscape requirements specified herein:

1. One (1) overstory tree per fifty (50) lineal feet of frontage;

2. Three (3) understory trees per fifty (50) lineal feet of frontage;

3. Curvilinear berm measuring a minimum of three (3) feet in height or a hedge row creating a solid vegetative screen at maturity of the plant materials. Said plant materials shall meet the minimum criteria for shrubs as specified by Section 39.5
E. [18.5 E.]; and

4. All areas not covered by plant materials specified in items 1. through 3. above shall be covered in ground cover, which shall be selected from the approved plant list.

c. Perimeter landscaping shall include the installation of a Decorative Fence meeting the standards specified in town code Chapter 3, article 3.10.

K. Landscaping Requirements for Non-Vehicular Open Space -Development within the RLI, RB, GC and P/SP zoning districts shall meet the following landscaping standards in addition to the landscaping of off-street parking and vehicular use areas and all bufferyards required by Section 18.6. All remaining open spaces on any developed lot or parcel shall conform to the following minimum criteria:

1. Grass, ground cover, shrubs, and other landscape materials shall be used to cover all open ground within twenty (20) feet of any building or paving or other use such as storage.

2. All structures shall be treated with landscaping so as to enhance the appearance of the structure and to screen any detractive or unsightly appearance.

3. Landscaping shall be provided on each developed lot in accordance with the following standards:

a. Native Overstory Trees - Overstory trees shall be planted in non-vehicular open space to meet the following criteria. Existing trees that are preserved on a developed site may be credited as specified by this Section.

Percentage of Site in [Non-]Vehicular Open Space:	Tree Ratio per Non-Vehicular Open Space:
Less than 30	1 tree/2,500 square feet
30 to 49	1 tree/3,000 square feet
More than 49	1 tree/4,000 square feet

4. Landscaping that is in excess of the required minimum open space that is located in the rear yard of the site shall not be used to meet the minimum open space requirements for the site.

L. Vehicular driveways from the public right-of-way and sidewalks, in accordance with Town regulations, shall be permitted through all required landscaping.

(Ordinance 361-05 adopted 3/22/05; Ordinance 451-08, sec. 3, adopted 5/20/08; Ordinance 513-11, sec. 7, adopted 3/15/11; Ordinance 564-14, sec. 7, adopted 7/15/14; Ordinance 760-23 adopted 11/21/2023)

§ 18.7. SIGHT DISTANCE AND VISIBILITY.

A. Strict compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections.

B. Landscaping, except required grass and low ground cover, shall not be located closer than three feet (3') from the edge of any vehicular pavement.

C. In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the Town Secretary, or his/her designee, the requirements set forth herein may be slightly reduced, if necessary, to remove the conflict.

(Ordinance 361-05 adopted 3/22/05)

§ 18.8. MAINTENANCE.

A. The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not to be limited to, mowing (of grass six inches or higher), edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within ninety (90) days. Trees with a trunk diameter in excess of six inches (6") measured twenty-four inches (24") above the ground may be replaced with ones of similar variety having a trunk diameter of no less than three inches (3") measured at caliper. A time extension may be granted by the Town, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his/ her agent.

B. It shall be the duty of any person or persons owning or occupying real property bordering on any street to prune trees next to the street in such manner that they will not obstruct or shade the streetlights, obstruct vision of traffic signs, or obstruct the view from any street intersection, pursuant to the Town's visibility standards. The minimum clearance of any portion of a tree overhanging public street right-of-way shall be fourteen feet (14'), and overhanging a public sidewalk shall be eight feet (8').

C. Failure to maintain any landscape area in compliance with this Section is considered a violation of this Section and may be subject to penalties of this Ordinance.

(Ordinance 361-05 adopted 3/22/05)

§ 18.9. IRRIGATION SYSTEM.

A. All required landscaped areas shall include a below-ground, mechanical irrigation system to insure the health and growth of the landscaping. Medians, rights-of-way, visibility clips and other common areas that are landscaped shall be irrigated, with irrigation plans for said landscaped areas approved by the Town prior to the issuance of a building permit.

B. All required overstory trees shall be irrigated with a separate line and said system shall include tree bubblers.

C. Each irrigation system shall be installed with moisture sensors for all required overstory trees and a rain sensor.

(Ordinance 361-05 adopted 3/22/05)

§ 18.10. TREE PRESERVATION.

A. Trees shall be preserved in accordance with ~~Ordinance No. 290-02 as amended [~~Article 3.05 of the Code of Ordinances~~]~~.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 19
ACCESSORY BUILDING AND USE REGULATIONS

§ 19.1. ~~[~~RESIDENTAL DISTRICTS.~~]~~

In a residential district, an accessory building is a subordinate or incidental building, detached from the main building, not used for commercial purposes and not rented. Accessory buildings shall not be permitted without a main building or primary use being in existence.
(Ordinance 361-05 adopted 3/22/05)

§ 19.2. ~~[~~NONRESIDENTIAL DISTRICTS.~~]~~

In nonresidential districts, an accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings should, wherever possible, be located toward the rear portion of the property.
(Ordinance 361-05 adopted 3/22/05)

§ 19.3. ACCESSORY DWELLINGS.

Accessory dwelling units, to be limited to servant quarters, caretaker's quarters, in-law quarters, or garage dwelling and allowed as specified by Appendix C, are incidental residential uses of a building on the same lot as the main dwelling unit and used by the same person or persons of the immediate family. No such accessory dwelling units shall be used or occupied as a place of abode or residence by anyone other than a bona fide caretaker, servant or farm worker actually and regularly employed by the land owner or occupant of the main building, or is a guest or family member of the owner/occupant, and shall meet the following standards:

A. The accessory dwelling unit may be constructed only with the issuance of a building permit, and shall be constructed with exterior cladding that meets the minimum construction standards for the zoning district in which the unit is located.

B. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

C. Setback requirements shall be the same as for the main structure.

D. Accessory dwellings are not permitted without the main or primary structure. At no time shall an owner occupy an accessory dwelling while the primary structure is being constructed. An accessory building may be constructed at the same time as the primary structure, however, a certificate of occupancy for an accessory dwelling will be issued only after a certificate of occupancy has been issued on the primary structure.

E. An accessory dwelling shall not exceed one thousand (1,000) square feet of floor area within a separate structure nor occupy in excess of one thousand (1,000) square feet of floor area of an accessory structure (i.e. barn, detached garage, etc.).

F. No more than one (1) accessory dwelling unit, to be limited to servant quarters, caretaker's quarters, in-law quarters, or garage dwelling, shall be allowed on any lot and shall be clearly incidental to the primary use.

G. Accessory dwellings shall be located toward the rear portion of the property and shall be limited to servant quarters, caretaker's quarters, in-law quarters, or garage dwelling and allowed as specified by Appendix C.

H. Accessory dwellings may not be served with separate utility meters and shall be served via the utility meters established for the primary structure(s).

I. A minimum lot size of four (4) acres is required to be eligible for a building permit to construct an accessory dwelling.

J. Accessory dwellings shall be located behind the primary structure and shall not be built further than fifty feet (50') from the primary structure.

(Ordinance 361-05 adopted 3/22/05)

§ 19.4. ACCESSORY BUILDINGS.

A. Accessory buildings shall meet the following minimum setbacks:

1. Where an accessory structure has frontage along a property line that is adjacent to a public street or right-of-way, the accessory structure shall be located no closer to the street than the primary structure;

2. Accessory structures shall not be located within the minimum building setbacks established for the zoning district in which they are located; and

3. Accessory Structures shall be prohibited between a primary structure and any public street in R1, RE-2, RE-5, MH, RLI, RB, VC, GC and P/SP Districts, except as follows:

a. Carports may be permitted between the primary structure and any public street in the MH District.

b. An accessory structure may be permitted on the side yard of a corner lot between the primary structure and a public street under the following conditions:

i. There is a limit of one accessory structure in the side yard between the primary structure and the public street;

ii. The front of the accessory structure must be oriented towards the front yard; and

iii. The accessory structure must comply with a 50-foot setback from the edge of the public street that abuts the side yard.

B. Carports shall be measured from the posts supporting the roof nearest to the street.

C. Accessory buildings are not permitted without a main structure.

D. Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings (including accessory dwellings) may be allowed in certain zoning districts by CUP if there is no adverse impact upon adjacent properties.

E. Metal portable accessory buildings less than one hundred and twenty (120) square feet and no greater than eight and one-half feet (8.5') in total ridge height are permitted. Such metal buildings shall not be used as an enclosed parking area or garage.

F. There shall be no more than two (2) accessory buildings on any lot located within an R-1 or MH zoning district.

(Ordinance 361-05 adopted 3/22/05; Ordinance 513-11, sec. 8, adopted 3/15/11; Ordinance 527-12, sec. 3, adopted 1/17/12; Ordinance 564-14, sec. 8, adopted 7/15/14; Ordinance 676-09 adopted 11/19/19)

CHAPTER 20
(RESERVED)[11]

~~6.~~4. **Editor's note–Former chapter pertaining to fencing, walls and screening requirements, was repealed and deleted in its entirety by Ordinance 760-23 adopted 11/21/2023. Prior to the deletion, this chapter derived from the following: Ordinance 361-05 adopted 3/22/05; Ordinance 504-10, sec. 2, adopted 9/21/10; and Ordinance 667-19 adopted 9/17/19. These provisions can now be found in Town Code article 3.10.**

CHAPTER 21
SUPPLEMENTAL REGULATIONS

§ 21.1. CALCULATING SETBACK.

A. Measuring Setbacks -All setback measurements shall be made in accordance with Appendix B, Illustration 8 ~~[in Appendix B]~~.

B. Configuration of Lots -Wherever possible, through (i.e., double frontage) lots (particularly within residential zoning districts) shall also be avoided wherever possible. (Also see Development Regulations for regulations pertaining to the configuration of lots.) Flag lots are not permitted.

C. Building Setbacks -All setbacks established on a recorded plat shall be enforced, even if they exceed the required setbacks in this Ordinance. Setbacks established on a recorded plat shall only be changed through replat proceedings (see Development Ordinance).

(Ordinance 361-05 adopted 3/22/05)

§ 21.2. FRONT YARD.

A. On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a construction plat. Where single-family lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side and/or rear yards in the case of single-family use shall be identified and the front of the structure shall not face the side or rear yard. All lots on cul-de-sac streets shall face the interior of (front yard) the cul-de-sac street.

B. Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage (see Appendix B, Illustration 10 ~~[in Appendix B]~~).

C. The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet (4'), and subsurface structures, platforms or slabs may not project into the front yard to a height greater than thirty inches (30") above the average grade of the yard (see Appendix B, Illustration 11 ~~[in Appendix B]~~). Open porches extending into the front yard shall not be enclosed.

D. Minimum lot widths for lots with predominate frontage on the curved radius of a street (e.g., cul-de-sac or “eyebrow” portion of a street) shall be measured as the linear distance of the curved front building line, and shall be shown on the subdivision plat. Lot widths for all lots shall be as set forth in the respective zoning district for each lot.

E. Gasoline service station pump islands (and their canopy structures) that parallel a public street may be located a minimum of twenty-five feet (25') to the property line adjacent to a public street. For pump islands (and canopies) that are perpendicular or diagonal to a public street, the setback shall be thirty feet (30') in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands (and their canopies) may extend beyond the front building line as described above (provided that all other requirements of this Ordinance are

met), but shall not be closer than fifteen feet (15') to any property line that is not adjacent to a public street.

F. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

G. If fifty (50) percent or more improved with existing buildings, and if the front yard setback for these existing buildings is greater than the front yard required for that zoning district in this Ordinance, then no new building shall be constructed to project beyond the least front yard depth of the existing buildings without a variance from the ~~Zoning~~ Board of Adjustment.

(Ordinance 361-05 adopted 3/22/05)

§ 21.3. SIDE AND REAR YARDS.

A. On a corner lot used for a single-family dwelling, both street exposures shall be treated as front yards on all lots platted after November 18, 2003 (pursuant to the Development Ordinance, as amended), except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by a street right-of-way, creek/floodplain area, or other similar phenomenon. In such case, the building line may be designated as a side yard of fifteen feet (15') or more (as determined by the applicable zoning district standards). On lots that were official lots of record prior to the effective date of this Ordinance, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.

B. Every part of a required side and rear yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed twelve inches (12") into the required side or rear yard, and roof eaves projecting not to exceed thirty-six inches (36") into the required side or rear yard. Air conditioning compressors and similar equipment are permitted in the side or rear yard. Open porches extending into a side or rear yard shall not be enclosed. A canopy may project into a required side or rear yard provided that it is not enclosed, and provided that it does not project more than five feet (5') into a required side yard.

C. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(Ordinance 361-05 adopted 3/22/05)

§ 21.4. SPECIAL HEIGHT REGULATIONS.

A. In districts where the height of buildings is restricted to two (2) or more stories, cooling towers may extend for an additional height not to exceed fifty feet (50') above the average grade line of the building.

(Ordinance 361-05 adopted 3/22/05)

§ 21.5. (RESERVED)

CHAPTER 22
COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES/TOWERS

§ 22.1. APPLICABILITY.

A. These regulations apply to all commercial and amateur antennae and support structures, unless exempted in Subsection B. below.

B. Direct broadcast satellite reception, multi-channel multi-point distribution (as defined by the FCC), television reception antennae, and amateur radio antennae meeting the following requirements do not require a permit unless mounted on a pole or mast that is twenty feet (20') or more in height:

1. In any zoning district, antennae that are one meter (i.e., 39 inches) or less in diameter;

2. In a nonresidential zoning district, antennae that are two meters or less in diameter;

3. In any zoning district, antennae designed to only receive television broadcasts;

4. In any zoning district, amateur radio antennae concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and

5. In any zoning district, amateur radio ground-mounted whips and wire antennae, unless mounted upon a pole or mast over twenty feet (20') in height.

C. Support structures or antennae legally installed before the effective date of this Ordinance are not required to comply with this Ordinance, but must meet all applicable State, Federal and local requirements, building codes and safety standards.

(Ordinance 361-05 adopted 3/22/05)

§ 22.2. SPECIAL DEFINITIONS.

For the purpose of this Section, the following special definitions shall apply:

A. Antenna, Microwave Reflector & Antenna Support Structure -An antenna is the arrangement of wires or metal rods used in transmission, retransmission and/or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as ~~satellite receive only earth stations (T.V.R.O.S.), or~~ satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

B. Antenna (Noncommercial/Amateur) -An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A satellite dish antenna not exceeding six feet (6') in diameter shall also be considered as a noncommercial antenna.

C. Antenna (Commercial) -An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain

(e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet (6') in diameter shall also be considered as a commercial antenna.

D. Collocation -The use of a single support structure and/or site by more than one communications provider.

E. Communications Operations (Noncommercial/Amateur) -The transmission, retransmission and/ or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.

F. Communications Operations (Commercial) -The transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain.

G. Height -The distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennae.

H. Radio, Television or Microwave Tower -See "Antenna, Microwave Reflector & Antenna Support Structure."

I. Telecommunications Tower or Structure -See "Antenna, Microwave Reflector & Antenna Support Structure."

J. Temporary/Mobile Antenna -An antenna and any associated support structure/equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed and/or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.

K. Wireless Communication Tower or Structure -See "Antenna, Microwave Reflector & Antenna Support Structure."

(Ordinance 361-05 adopted 3/22/05)

§ 22.3. GENERAL REQUIREMENTS.

A. Antennae and support structures may be considered either principal or accessory uses.

B. Antenna installations shall comply with all other requirements of the Zoning Ordinance and the Code of Ordinances with the exception of those specifically cited within these regulations.

C. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures that exceed fifty feet (50') in height, or to antennae placed wholly within or mounted upon a building.

D. No amateur or commercial antenna, antenna support structure, microwave reflector/ antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.

E. All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA),

and/or all other applicable Federal, State and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six (6) months or as may otherwise be required by the applicable regulating authority.

F. A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless the particular antenna is exempt from these regulations. All installations shall comply with applicable Federal, State and local building codes and the standards published by the Electronic Industries Association. Owners/users shall have thirty (30) days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance.

G. Antennae (amateur or commercial) shall not create electromagnetic or other interference with the Town of Bartonville's and the County's radio frequencies and public safety operations, as required by the FCC. Antennae also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.

H. No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem.

I. Safeguards shall be utilized to prevent unauthorized access to an antenna installation (e.g., on a water tower or utility structure, a freestanding installation, etc.). Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.

J. Temporary antennae shall only be allowed in the following instances:

1. In conjunction with a festival, carnival, rodeo or other special event/activity;

2. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;

3. When needed to restore service on a temporary basis after failure of an antenna installation. The Town must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven (7) days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth (8th) day following initial placement of the antenna.

K. Collocation is greatly encouraged by the Town.

1. All new support structures over fifty feet (50') in height shall be constructed to support antennae for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.

2. A support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within fifty feet (50') of its original location provided that it is not moved any closer to residentially zoned property (if the structure was allowed by CUP, then its new location shall be within the physical/land boundaries of the CUP). The original (i.e., former) support structure shall be removed from the property within ninety (90) days following completion of the new structure.

3. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.

L. Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop. When ground mounted, they shall meet all applicable front, side and rear yard setback requirements of the applicable base zoning district. They shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. They shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of three feet (3'), and which will attain an ultimate height of six feet (6') at maturity. A six-foot (6') solid masonry wall may be used in lieu of the landscaped screen provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited, and wrought iron or chain link may only be used in conjunction with a landscaped screen as specified above.

M. Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39") in diameter and antennae do not extend over ten feet (10') above the roof of the building.

N. Only one (1) amateur antenna/support structure shall be permitted per residential lot, except that a maximum of two (2) satellite dishes may be allowed if both units are no larger than one meter (39") in diameter (only one allowed if over one meter in diameter). Satellite dishes in any residential district shall not exceed twelve feet (12') in diameter, and must be permitted by the Town Secretary or his/her designee. A letter certifying the roof's/building's structural stability shall be written and sealed by a registered architect or engineer, and shall be submitted to the Town Secretary, or his/her designee, prior to any approval of a roof-mounted antenna over 39". Roof-mounted antennae that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

O. All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA and/or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that said lights are not commercial (i.e., for-profit) in nature, and provided that said lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc. as they previously existed prior to support structure modification/replacement.

P. Any publicly owned antennae or antenna support structures shall be permitted in any zoning district (e.g., public safety communications, etc.).

Q. In all residential zoning districts, commercial antennae and antenna support structures are prohibited, except as specified within this Section.

1. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/ distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.

2. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/ structure if it is painted and/or disguised to integrate into the overall architectural design

and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

R. In nonresidential zoning districts, commercial antennae and antenna support structures are allowed as follows:

1. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by Conditional Use Permit (CUP) provided the structure conforms in all other aspects of the base zoning district's regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.

2. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/ distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.

3. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/ structure if it is painted and/or disguised to integrate into the overall architectural design, and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 23
MINIMUM DWELLING UNIT AREA

§ 23.1. MINIMUM DWELLING UNIT AREA.

A. Minimum dwelling unit areas specified in this Ordinance shall be computed exclusive of breezeways, garages, open or covered porches, carports and accessory buildings. The minimum dwelling unit area shall be defined as the habitable (i.e., air-conditioned) floor area of the dwelling.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 24
OPEN STORAGE AREAS

§ 24.1. OPEN STORAGE AREAS.

A. Open storage of materials, commodities or equipment (where allowed in the specific zoning district) shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display as may be authorized in each of the zoning districts.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 25
SIGHT VISIBILITY

§ 25.1. VISUAL CLEARANCE.

A. Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, landscaping or other feature obstructs the vision of a motor vehicle driver approaching any street, or driveway intersection. Whenever an intersection of a street(s) and/or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between twenty-four inches (24") and eight feet (8') above the ground. The triangular areas are defined as follows:

1. Minor street intersection (except a street intersecting onto an arterial, see below) or intersection of private driveway onto a public street - These areas shall have a triangular visibility area with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length along the right-of-way lines (or along the driveway curb line and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two (2) sides (see Appendix B, Illustration 5~~ [in Appendix B]~~).

2. Major street intersection - These areas shall have a triangular visibility area with two (2) sides of each triangle being a minimum of fifty feet (50') in length along the right-of-way lines from the point of the intersection, and the third side being a line connecting the ends of the other two (2) sides (see Appendix B, Illustration 5~~ [in Appendix B]~~).

(Ordinance 361-05 adopted 3/22/05)

§ 25.2. SHRUBS AND PLANT MATERIALS.

A. Shrubs and plant materials that are typically less than twenty-four inches (24") in height at maturity may be located within sight visibility areas provided that they are kept maintained at a maximum height of twenty-four inches (24").

B. A limited number of single-trunked trees having a clear trunk (i.e., branching) height of at least eight feet (8') may be located within sight visibility areas provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility inhibiting, “picket-fence” effect when they attain mature size.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 26
ACCESS STANDARDS FOR NONRESIDENTIAL LOTS

§ 26.1. ~~[SHARES~~ SHARED OPENINGS.~~]~~

All nonresidential lots (including pad sites) shall share driveway curb openings via mutual access easements from one lot to adjacent lots, for fire and emergency access, as well as for public convenience~~)~~.
(Ordinance 361-05 adopted 3/22/05)

§ 26.2. ~~[~~ALIGNMENT.~~]~~

Driveways for all nonresidential lots (including pad sites) shall align, to the greatest extent possible, with any existing or proposed driveways on the other side of any type of roadway.
(Ordinance 361-05 adopted 3/22/05)

CHAPTER 27
PERFORMANCE STANDARDS

§ 27.1. ~~[~~CONFORMANCE REQUIRED.~~]~~

In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by County, State and/or Federal agencies. All uses, including those which may be allowed by PD or CUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.
(Ordinance 361-05 adopted 3/22/05)

§ 27.2. ~~[~~FEDERAL AND STATE REQUIREMENTS.~~]~~

All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed. (Ordinance 361-05 adopted 3/22/05)

§ 27.3. NOISE.

A. Unlawful Intensified or Amplified Sounds. It shall be unlawful for any person to use or operate, cause to operated, or allow to be used or operated, any mechanical device or electrical device, machine, apparatus or instrument to intensify or to amplify any other sound in the Town of Bartonville, whereby the sound therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises.

B. Nuisances Declared. The following acts, among others, are declared to be nuisances in violation of this ordinance, but said enumerations shall not be deemed to be exclusive, to wit:

(1) The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 P.M. and 7 A.M., as to annoy or disturb the quiet, comfort or repose of persons of normal nervous sensibilities and of ordinary tastes, habits, and modes of living in any office building, dwelling or other type of residence.

(2) The use of any stationary loudspeaker or amplifier of such intensity that annoys or disturbs persons of normal nervous sensibilities and of ordinary tastes, habits, and modes of living in the immediate vicinity thereof; the use of any stationary loudspeaker or amplifier operated on any day between the hours of 10:00 P.M. and 7:00 A.M. This provision shall not be construed to deny any party the right to operate church bells or chimes or conduct any outdoor meeting using a stationary loudspeaker. In the event such speakers shall be used after the hour of 10:00 P.M., individuals desiring to operate same shall receive approval from the Town Council who shall not unreasonably withhold the same.

(3) The keeping of any animal or fowl which by causing frequent or long-continued noise shall disturb the comfort and repose of any person of normal nervous sensibilities and ordinary taste, habits, ~~[~~and~~]~~ modes of living in the immediate vicinity.

(4) The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonable loud or harsh device [noise] for any unnecessary and unreasonable period of time.

(5) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(6) The use of any automobile, motorcycle or vehicle, in a state of disrepair or loaded or operated in such a manner as to create loud or unnecessary noises such as spinning or squealing of tires, loud or defective exhaust, grating, grinding, rattling or other noises.

(7) The erection, including excavation, demolition, alteration or repair work on any building or other construction activity between the hours of 8:00 p.m. and 7:00 a.m., except in case of urgent necessity in the interest of public safety and convenience, and then only by approval from the Town Council except as allowed in ~~Section 30.3 [~~Chapter 32~~]~~.

(8) The creation or causing of any unreasonable or excessive noise, that is calculated to disturb a person of ordinary sensibilities, by any means on any street adjacent to any school while the same is in session and in or near a residence.

(Ordinance 361-05 adopted 3/22/05)

§ 27.4. SMOKE AND PARTICULATE MATTER.

No operation or use shall cause, create, or allow an emissions in excess of TCEQ standards~~:[~~.~~]~~
(Ordinance 361-05 adopted 3/22/05)

§ 27.5. ODOROUS MATTER.

A. No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds short-term or long-term Effects Screening Levels (ESLs) as indicated on the ESL List used by the Texas Commission on Environmental Quality (TCEQ) Toxicology Division for air permitting, updated July 29, 2011 as amended from time to time, at the bounding property line or any point beyond the tract on which such use or operation is located.

B. The odor threshold as herein set forth shall be determined by observation by a person or persons; or, through a certified report from the Texas Commission on Environmental Quality. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures utilized by the TCEQ shall be used to perform additional testing.

(Ordinance 361-05 adopted 3/22/05; Ordinance 527-12, sec. 4, adopted 1/17/12)

§ 27.6. FIRE OR EXPLOSIVE HAZARD MATERIAL.

A. No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the Fire Chief of the Town of Bartonville.

B. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Town of Bartonville Fire Code or are approved by the Fire Chief.

(Ordinance 361-05 adopted 3/22/05)

§ 27.7. TOXIC AND NOXIOUS MATTER.

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which exceeds short-term or long-term Effects Screening Levels (ESLs) as indicated on the ESL List used by the Texas Commission on Environmental Quality Toxicology Division for air permitting, updated July 29, 2011 as amended from time to time, at the bounding property line or any point beyond the tract on which such use or operation is located.
(Ordinance 361-05 adopted 3/22/05; Ordinance 527-12, sec. 4, adopted 1/17/12)

§ 27.8. VIBRATION.

A. No operation or use shall at any time create earthborne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles Per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 28
NONRESIDENTIAL AND RESIDENTIAL LIGHTING AND GLARE STANDARDS

§ 28.1. PURPOSE.

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby property by their owners and occupants while requiring adequate levels of lighting of parking areas.
(Ordinance 361-05 adopted 3/22/05)

§ 28.2. NONRESIDENTIAL SITE LIGHTING AND GLARE STANDARDS.

A. Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of three (3) feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 footcandles. Light poles shall be placed on the site a setback equal to its height from all adjacent residential property.

B. All off-street parking areas for nonresidential uses in nonresidential districts which are used after dark shall be illuminated beginning one-half (1/2) hour after sunset and continuing throughout the hours of business operation. If only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with these standards. However, the portion offered for use shall be clearly designated. Lighting within the parking areas shall meet the following minimum requirements:

   1. Intensity:

      a. Minimum at any point on the parking area surface to be at least 0.6 footcandles initial, and at least 0.3 footcandles maintained or one-third (1/3) of the average, whichever is greater.

      b. Illumination shall not exceed an average of one (1) footcandle at ground level and shall distribute not more than 0.25 footcandles of light upon any adjacent residentially zoned area.

   2. Height:

      a. The maximum height of light poles shall conform to the maximum height allowed for the main building in each zoning district.

      b. Special lighting or lighting higher than the height allowed in the applicable zoning district may be approved by Town Council as specifically noted on the site plan.

(Ordinance 361-05 adopted 3/22/05)

§ 28.3. RESIDENTIAL LIGHTING AND GLARE STANDARDS.

A. Residential lighting for security and night recreation use is permitted in all residential districts provided the following requirements are met:

1. Direct lighting over ten feet (10') in height is shielded from adjacent property.

2. No light source shall exceed twenty feet (20') in height. A light source of up to thirty-five feet (35') in height with a lighting plan prepared by an engineer may be approved the Town Building Official. Streetlights and other traffic safety lighting are exempt from this standard.

3. Lighting shall not directly shine on adjacent dwellings.

(Ordinance 361-05 adopted 3/22/05)

§ 28.4. LUMINAIRES.

A. Light sources shall be of a down-light type, indirect, diffused, or shielded type luminaires installed and maintained so as to reduce glare effect (i.e., minimum seventy degree (70º) cutoff when measured from horizontal) and consequent interference with use of adjacent properties and boundary streets.

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 29
HOME OCCUPATION REGULATIONS

§ 29.1. ~~[~~HOME OCCUPATION REGULATIONS.~~]~~

In all districts, the home occupation shall not employ more than one (1) person who is not a member of the household in which the home occupation occurs. The home occupation shall not occupy more than 25% of the floor area of the primary structure.
(Ordinance 361-05 adopted 3/22/05)

§ 29.2 NO-IMPACT HOME-BASED BUSINESSES REGULATIONS

a. No-impact home-based business: A no-impact home-based business shall be allowed as an accessory to any principal dwelling unit in all zoning districts that permit residential uses, subject to the following standards:

1. The home-based business shall be conducted in the house by the owner or tenant of the primary dwelling.

2. The business located within the dwelling shall be secondary to the use of the property as a residential dwelling, meaning that the business may not exceed 20 percent of the floor area of the house or 20 percent of the combined building area of all structures on the lot. Activities shall be wholly conducted within either the primary structure or in any detached accessory structure on the lot.

3. Neighborhood Compatibility:

a. The home-based business shall not cause any change in the external appearance of the existing buildings and structures on the property.

b. All vehicles used in connection with the home-based business shall be of a size, and located on the premises in such a manner, so that a casual observer or a person of normal sensibilities will not be able to detect any sign of the premises being used as a home occupation. No vehicle larger than one ton shall be kept on the premises or shall be parked on the street.

c. Parking of vehicles to accommodate permitted customers shall be limited to the driveway of such premises or along the curb immediately adjacent to such premises.

d. Any sales in connection with such home occupation shall be clearly secondary to occupancy. Merchandise shall not be offered or displayed for sale on the premises, except that sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises. Merchandise must be stored and maintained at all times inside the premises. No excessive number of deliveries shall be permitted.

e. There shall be no advertising devices on the property or other signs of the home-based business that are visible from off the premises, other than advertising located on vehicles in accordance with the Town's sign regulations.

f. The property shall contain no outdoor display of goods or services that are associated with the home occupation. Outside storage is prohibited.

g. The home-based business shall not create traffic or parking congestion, noise,

vibration, odor, glare, fumes, or electrical or communications interference that can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

4. Prohibited Operations: The following uses, in accordance with state law, shall not be permitted as no-impact home-based businesses:

   a. the sale of alcohol or illegal drugs;

   b. a structured sober living home;

   c. a sexually oriented business as defined by Texas Local Government Code, Section 243.002; or

   d. short-term rentals.

5. All no-impact home-based businesses are subject to all other applicable ordinances adopted by the Town of Bartonville, as allowed by law.

CHAPTER 30
SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES

§ 30.1. DAY CARE CENTERS.

A. Site plan approval by the Planning and Zoning Commission and Town Council shall be required for all day care center sites, whether or not an CUP is required.

B. Day care centers are a permitted use by right if operated by an organized church and within the building complex of said church. However, operation of day care facilities requires site plan approval and issuance of a Certificate of Occupancy for day care.

C. Day care centers are permitted in nonresidential districts only when:

1. The day care center is platted on an individual lot; or

2. The day care center is in a multi-occupant building with direct access to the exterior of the building. Direct access must be provided to the outdoor play space, and the outdoor play space must be immediately adjacent and not separated from the day care center; or

3. The day care center is located in an office structure or similar single-user structure with no direct access to the exterior of the building other than doorways connecting to outdoor play space, as per building code requirements; or

4. The day care center is an accessory use that provides a service to employees, customers or patrons of the principal use. A two-square-foot identification sign may be provided; or

5. The day care center is in an accessory building located on the same lot as the main building (e.g., an office building) and provides a service to employees, customers or patrons of the main building. A two-square-foot identification sign may be provided.

D. All day care centers shall comply with the following standards:

1. All passenger drop-off areas and outdoor play space shall be located so as to avoid conflict with vehicular traffic. Adequate walkways shall be provided.

2. Outdoor play space shall be provided at a rate of sixty-five (65) square feet per child (based upon the maximum design capacity). The required outdoor play space shall have no dimension of less than thirty feet (30'). This requirement may be waived by the Planning & Zoning Commission and/or Town Council if the day care is provided for less than four (4) hours per day for the children.

3. No day care center shall be part of a one- or two-family dwelling.

4. A day care center shall abut and derive its primary access from a street with a pavement width of 36 feet or greater, and shall have direct access to a median opening on a median-divided roadway (existing or planned).

5. No portion of a day care center site shall be located within three hundred feet (300') of gasoline pumps or underground fuel storage tanks, or any other storage area/facility for explosive materials.

6. All other aspects of a day care center site shall conform to regulations and/or guidelines established by the Texas Department of Human Resources and/or the Texas Department of

Protective and Regulatory Services. (Ordinance 361-05 adopted 3/22/05)

§ 30.2. SEXUALLY ORIENTED BUSINESSES.

(See ~~Article 4.102 [~~Article 4.05~~]~~ of the Town Code) (Ordinance 361-05 adopted 3/22/05)

§ 30.3. (RESERVED)

Editor's note–Former section 30.3, pertaining to oil and gas well drilling and production, and deriving from Ord. 461-08 adopted 11/18/08 and Ord. 513-11, sec. 9, adopted 3/15/11, was repealed and deleted in its entirety by Ord. 526-11 adopted 10/18/11. For a complete derivation of this section, see the ordinance disposition table. These provisions can now be found in Chapter 32 of this exhibit.

§ 30.4. FARMERS' MARKET.

A. No person shall operate a farmers' market without first obtaining a conditional use permit ("CUP") under this chapter, and without first obtaining any necessary permit(s) required by chapter 6 of the Town Code of Ordinances.

B. Farmers' markets shall be located on properly zoned private property. An active business other than a farmers' market shall be currently operating on the property. The owner or operator of the farmers' market shall obtain a notarized letter from the business owner stating that the market has permission to operate on the property. The notarized letter shall be submitted to the Town at the time of CUP application.

C. Outside storage in excess of seventy-two (72) hours is prohibited.

D. Farmers' markets must meet the minimum setback requirements as set forth in Chart 4.4.

E. Farmers' markets shall meet the requirements of Section 12.3.C.7.a of this ordinance, with the exception of Section 12.3.C.7.a.1.

F. No more than 20 percent (20%) of the display area allocated to each vendor shall be devoted to nonfood items.

G. The resale of household goods, personal effects, tools, small household appliances and other items of a similar nature shall be prohibited.

H. The sale of plants, shrubs, trees and materials used in indoor or outdoor planting or pest prevention shall be prohibited, except any potted or hanging plants of one gallon or less. The sale of fresh herbs shall be exempt from this requirement.

I. The sale of firewood shall be prohibited.

J. The sale or keeping of animals shall be prohibited.

K. Conveniently located toilet facilities shall be available for all vendors and customers. A notarized letter from the business owner granting the market vendors access to toilet facilities during all hours of the farmers' market operation shall be submitted to the Town with the CUP application.

L. The owner or operator of a farmers' market shall ensure that all trash, refuse and garbage is removed from the site at the end of each day or that trash, refuse and garbage is placed in

appropriate containers for later disposal. The premises occupied by the farmers' market shall be kept clean and free of accumulated trash, refuse or garbage during the hours of operation.

M. The owner or operator of a farmers' market commits an offense if the farmers' market is operated in violation of any provision of this section. Any violation of this section may be subject to prosecution in municipal court.

(Ordinance 418-07, sec. 3, adopted 3/20/07; Ordinance 657-19, sec. 2, adopted 5/21/19)

§ 30.5. UTILITY REGULATING STATIONS.

A. The purpose of this Subsection is to provide basic criteria and more particularized standards for the development and maintenance of Utility Regulating Stations (as defined in Chapter 2, Definitions, Section 2.2(~~193~~203)), which includes without limitation Electric Substations, Electric Switch Stations, and similar facilities. These reasonable regulations serve to preserve the integrity of adjacent affected properties and to prevent imminent destruction of property or injury to persons, while ensuring that the mitigating requirements set forth in this Subsection conform to the Town's Zoning Ordinance. The regulations set forth in this Subsection further serve to protect the health, safety, and general welfare of the public and to accomplish the orderly and practical development of Utility Regulating Station facilities in the Town.

B. It is further the purpose of this Subsection to: (1) preserve neighborhood visual cohesion, avoid eyesores, and avoid diminished property values, (2) adopt the most current National Electrical Safety Code, as amended (NESC), and the most current North American Electric Reliability Corporation Critical Infrastructure Protection regulations, as amended (NERC CIP) to be applicable to Stations, and (3) to provide for architectural variety, compatible scale, and mitigation of negative impacts.

C. All technical industry words and phrases related to Utility Regulating Stations not specifically defined in the Town's Zoning Ordinance or this Subsection shall have the meanings customarily attributable thereto by prudent operators in the electric industry. For the purposes of this Subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. Electric Distribution Line means any electric line or part of the power system which distributes electric power at less than 60kV when measured phase to phase, and is utilized to deliver and serve electric power to local utility customers. Electric Distribution Lines include both overhead and underground facilities and circuits that operate at a primary rated distribution voltage level of 13.2kV/7.62kV Grounded Wye. The distribution system includes that part of the distribution line transformers and all other necessary equipment to step the primary voltage down to a lower secondary voltage level to meet service requirements.

2. Electric Substation means a structure that is part of an electric generation, transmission, and distribution system which either (a) converts electric energy to a lesser voltage for the purpose of subregional or localized distribution; (b) functions as a transition point from overhead to underground electric transmission lines; or (c) acts as the point of convergence for two or more transmission lines.

3. Electric Switch Station means a substation without transformers and operating only at a single voltage level.

4. Station means a Utility Regulating Station, Electric Substation, or Electric Switch Station.

5. Transmission Line means any electric line operating at a nominal line-to-line voltage equal to or greater than 60,000 volts.

D. To the extent that the requirements in this Subsection conflict with other requirements appearing elsewhere in the Town's Zoning Ordinance, the more restrictive requirement controls.

E. Site plan approval by the Planning and Zoning Commission and Town Council in accordance with Chapter 3 of the Town's Zoning Ordinance shall be required for all Utility Regulating Stations (including Electric Substations and Electric Switch Stations as defined in this Subsection).

F. Utility Regulating Stations are permitted through a Conditional Use Permit (CUP) utilizing the procedures set forth in Chapter 16 of the Town's Zoning Ordinance, under the standards set forth in Chapter 14A of the Town's Zoning Ordinance, and in the zoning districts specified in ~~Chapter 14A~~Appendix C of the Town's Zoning Ordinance.

G. All Utility Regulating Stations (including Electric Substations and Electric Switch Stations as defined in this Subsection) shall comply with the following standards:

1. Environmental Report: Prepare and submit to the Town an Environmental Assessment under the guidelines set forth in the U.S. Department of Agriculture Rural Utility Service environmental regulations, Part 1970, Subpart C, Sections 1970.101. through 1970.104, and Exhibit B thereto, as may be found at https://www.rd.usda.gov/publications/regulations-guidelines/instructions, as amended.

2. Screening Wall: A minimum ten foot (10') brick or stone masonry wall is required around the perimeter of the Station structures and facilities to screen the view from public rights-of-way and from adjoining properties.

3. Landscaping: A minimum twenty-foot (20') wide landscape area shall be provided around the perimeter of the screening wall. Six (6) evergreen ornamental trees and thirty (30) evergreen shrubs shall be provided for every 100 hundred linear feet (100') of perimeter landscaping. Recommended evergreen ornamental trees are: Eastern Red Cedar, Wax Myrtle, and tree Yaupon Holly. Recommended evergreen shrubs are: Dwarf Yaupon Holly, Dwarf Bufford Holly, and Gulf Muhly. Required landscaping may be planted in regular intervals or in clusters. Trees shall be preserved in accordance with Section 18.10 of the Town's Zoning Ordinance, as amended. Irrigation responsibility and maintenance for all landscaping shall be provided in accordance with Sections 18.8 and 18.9 of the Town's Zoning Ordinance, as amended. Landscaping shall not interfere with the physical security of the Station pursuant to NERC CIP.

4. Gates: Gates shall be provided at all entrances, and shall be a no-climb gate. Wrought iron or similar metal gates shall be permitted for the gate material so long as the gate is not situated directly across from a residence. If the gate is situated directly across from a residence, then it shall be constructed of opaque or semi-opaque metal to provide reasonable screening to the interior of the station from public view. Chain link material is not permitted in any case.

5. Setbacks: Stations shall be set back in accordance with this Subsection in order to comply with the screening wall, landscaping, and access and transportation requirements of this Subsection. Stations shall be set back from property lines adjacent to residential properties the same distance as the adjacent residential properties' zoning requires.

6. Access and Transportation: Access and transportation into and around the Station should be provided to minimize the impacts on adjacent properties, intersections, and the overall Town street system. Access to the Station should be carefully considered to limit the number of entrances that allow greater visibility into the Station, while simultaneously allowing for adequate maneuvering of trucks and other heavy equipment necessary to construct, operate, and maintain the Station. Driveways shall be located on the perimeter streets of the lowest classification unless the only reasonable means of providing safe and adequate access to the property, as determined by the Town Engineer, is to access a street of higher classification. Driveways shall be located so as not to be directly across from the front yards of residential structures or uses, unless otherwise approved by the Town Council. No more than two driveways shall be located on each perimeter street. Driveways shall be constructed of concrete from the back of edge of the street to the entrance gate of the station, and gravel is not a permitted driveway material for any driveway outside of the Station's perimeter screening wall.

7. Parking: No parking spaces are required. If provided, parking spaces outside the screening wall shall be screened from public view.

8. Safe Distance from Gas Wells: Stations shall be located a safe distance from gas wells per Texas Railroad Commission Rules and/or Texas Commission on Environmental Quality Rules, whichever rules provide the greatest distance.

9. Miscellaneous standards: The Station must comply with the following development standards appearing in the NESC and/or NERC CIP, as amended, and as applicable:

   a. Height

   b. Noise, except that the same standards apply as those that apply to residential properties that are adjacent to a Station under the Town's Zoning Ordinance, Chapter 27, as amended.

   c. Voltage Limitations

   d. Warning Sirens

   e. Lighting, except that the same lighting and glare standards apply as set forth in Chapter 28 of the Town's Zoning Ordinance, as amended.

   f. Internal Illumination

   g. Vibration, except that the same vibration standards apply as set forth in Chapter 27 of the Town's Zoning Ordinance, as amended.

   h. Electric Interference

   i. Other development standards established by NERC CIP, as amended.

   j. Other standards as set forth in Chapter 27 of the Town's Zoning Ordinance, as amended.

10. Line Clearance Standards: Electric distribution lines, transmission lines and other electric lines shall comply with clearance criteria in the NESC, as amended.

(Ordinance 618-17 adopted 4/18/17)

CHAPTER 31
APPROVED PLANT LIST

§ 31.1. ~~[~~APPROVED PLANT LIST.~~]~~

The following landscape plant materials are approved to meet the planting requirements of this Ordinance. Additional plant materials may be used if approved by the Town in conjunction with Site Plan approval.

Canopy/Overstory Trees:

Shade Trees Live Oak Bur Oak
Chinquapin Oak Red Oak Bald Cypress
Cedar Elm Evergreen Trees Leylandii Cypress Eldarica Pine Japanese Black Pine

Accent/Understory Trees:

Yaupon Holly Crapemyrtle Aristocrat Pear

Shrubs:

Evergreen Shrubs (Acceptable for low (5' or less) screening) Glossy Abelia
Dwarf Yaupon Holly Dwarf Burford Holly Carissa Holly Compact Nandina Gulf Stream Nandina Dwarf Waxmyrtle Japanese Boxwood
Evergreen Shrubs (Acceptable as noted for 6' screening) Red Tip Photinia
Sea Green or Tam Juniper

Shrubs:

Cleyera

Nellie R. Stevens Holly Edward Goucher Abelia

Other Shrubs (Acceptable for uses other than low or buffer screening) Dwarf Crapemyrtle
Red Leaf Barberry

Bay Breeze Indian Hawthorne

Ground Cover:

Creeping Juniper Liriope
Asian Jasmine

Common Bermuda Grass Hybrid Bermuda Grass Annual Rye Grass Raleigh St. Augustine

(Ordinance 361-05 adopted 3/22/05)

CHAPTER 32
GAS WELL DRILLING AND PRODUCTION

§ 32.1. PURPOSE.

The exploration, development, and production of gas in the Town are activities which necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this Chapter to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with oil and gas within the Town to protect the health, safety and general welfare of the public; minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.
(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.2. DEFINITIONS.

All technical industry words or phrases related to the drilling and production of oil or gas wells not specifically defined in this section shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. *Abandonment* means "abandonment" as defined by the Railroad Commission and includes the plugging of the well and restoration of the drill site as required by this Ordinance.

B. *Air contaminant* means particulate matter, radioactive material, dust[,] fumes, gas[,] mist, smoke, vapor, or odor, including any combinations of those items, produced by processes other than natural.

C. *Ambient Noise Level* means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

D. *Blowout Preventer* means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

E. *Building* means any structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

F. *Cathodic Protection* means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

G. *Closed-Loop Mud System* means a system utilized while drilling so that reserve pits are not used and instead closed top steel tanks are used to collect all drilling waste.

H. *Closed-vent System* means a system that:

1. is not open to the atmosphere;

2. is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices; and

3. transports gas or vapor from a piece or pieces of equipment directly to a control device.

I. *Code* means the Town of Bartonville Code of Ordinances as may be amended from time to time.

J. *Complete Application* means an application for a gas well permit which is submitted and which includes the following:

1. A completed application form notarized by the owner or the owner's authorized agent;

2. Every item, study, plan, agreement or document required by this Chapter or other applicable ordinances;

3. An approved Gas Well Development Plat;

4. Payment for all application fees as specified in the Town's fee schedule or other ordinance establishing fees;[.]

K. *Compressor Station* means a compressor that serves more than one lease area or a compressor that serves a pipeline.

L. *Daytime* means 7:00 a.m. to 8:00 p.m.

M. *Drill Site* means the premises used during the drilling, redrilling, or reworking of a well or wells located there and subsequent life of a well or wells or any associated operation.

N. *Drilling Equipment* means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

O. *Emergency* means any or all of the following: explosion, fire, blowout, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accident or spill or other occurrence at the well development or operation site that would place persons or property at substantial risk.

P. *Exploration* means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other subsurface oil or gas.

Q. *Fire Chief* means the Fire Chief of Denton County Emergency Services District (ESD) 1, or their designeethe Fire Marshal of Denton County or the Fire Chief (or designee by the Town) of the Argyle Volunteer Fire District.

R. *Fire Code* means the most recent Fire Code adopted by the Town of Bartonville.

S. *Fire Department* means the Argyle Fire DistrictDenton County Emergency Services District (ESD) 1.

T. *Flare* means a flame used for disposal of hydrocarbons during cleanup, emergency shutdowns and/or for disposal of small volume waste streams of mixed gases.

U. *Fracturing (or fracking)* means injecting of water mixed with other materials and chemicals into a well to cause pressure that will open up fractures already present in the formation.

V. *Gas* means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

W. *Gas Inspector* means the person employed or appointed as the gas inspector by the Town Council under this Chapter.

X. *Gas Operation* means the process of exploring for or producing gas, or both, or the storage of natural hydrocarbons or liquefied petroleum gas, including, but not limited to, the following activities:

1. gas well site development, including drilling and fracturing;
2. producing or pumping;
3. processing;
4. gathering;
5. compressing;
6. treating;
7. transporting;
8. conditioning;
9. removing or disposing of produced water or brine;
10. separating;
11. storing;
12. injecting;
13. testing;
14. reporting;
15. maintaining or using surface facilities;
16. secondary recovery; or
17. well abandonment.

Y. *Gas Well* means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Z. *Gas Well Permit* means a Gas Well Permit applied for and issued or denied under this Chapter authorizing the drilling, production, and operation of one or more oil or gas wells.

AA. *Habitable Structure* means a structure suitable or used for human occupation or habitation.

BB. *Hazardous Materials Management Plan* means the hazardous materials management plan and hazardous materials inventory statements required by the Code of Ordinances of the Town of Bartonville.

CC. *High Bleed Pneumatic Device* means a pneumatic device, such as, but not limited to, a liquid level controller, pressure regulator or valve controller, that bleeds more than 6 scfh (over 50 Mcf per year).

DD. *Landscape Architect* means a person who holds a registration or otherwise satisfies the requirements under Tex. Occupations Code, Chapter 1052, as amended from time to time.

EE. *Lift Compressor* means a device that raises the pressure of a compressible fluid (gas) in order to lift gas from the well. Lift compressors are limited to serving one or more wells on a single lease area as indicated on an approved development plat.

FF. *Line Compressor* means a device that raises the pressure of a compressible fluid (gas) in order for the gas to be transported through a pipeline.

GG. *New Well* means a new well bore or new hole established at the ground surface and shall not include the reworking of an existing well that has not been abandoned.

HH. *Nighttime* means between the hours of 8:00 p.m. to 7:00 a.m. the following day.

II. *Oil* means oil or crude oil; as such terms are used in the rules, regulations, or forms of the Texas Railroad Commission.

JJ. *Oil Well* means any well drilled for the production of oil or classified as an oil well under the Texas Natural Resources Code.

KK. *Operation Site* means the area used for development and production and all operational activities associated with gas after drilling activities are complete and gas is delivered to the sales line.

LL. *Operator* means, for each well, the person listed on the Railroad Commission Form W-1 or Form P-4 for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator; the operator also means the contractor or subcontractor performing operations on the well development site or operation site on behalf of the operator. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this Chapter, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this Chapter, the owner of the mineral estate in the premises shall be deemed an operator.

MM. *Parcel* means a tract of land which is defined by a legal description which is filed of record, and which may be subdivided.

NN. *Permit Holder* means any person, corporation or other legal entity that has successfully completed the application process and has acquired a permit to conduct gas drilling, or fracking operations or otherwise operating a gas or oil production site.

OO. *Person* includes both the singular and plural and means a natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, and a fiduciary or representative of any kind.

PP. *Production* means the period between completion and abandonment of a well and the activities performed during such period.

QQ. *Protected Use* means a residence, religious institution, hospital building, school or public park.

RR. *Public Building* means all buildings used or designed to and intended to be used for the purpose of the general assembly of persons for such purposes as deliberation, entertainment, amusement, or health care whether or not they are open to the public. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, or restaurants.

SS. *Railroad Commission or RRC* means the Railroad Commission of Texas.

TT. *Redrill* means recompletion of an existing well by deepening or sidetrack operations extending more than one hundred and fifty (150) feet from the existing well bore.

UU. *Refracturing* means fracturing after the initial fracturing of a well.

VV. *Religious Institution* means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

WW. *Residence* means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed with the Town Administrator. Residence shall include assisted living facilities, hotels, motels and jails.

XX. *Reworking* means recompletion or reentry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

YY. *Road Damage Remediation Agreement* means an agreement executed by and between the Town of Bartonville and the Operator of an Oil or Gas Well that provides for compliance with the provisions of this ordinance and for the payment of fees for damage remediation of certain streets and/or roadways within the Town of Bartonville, as attached hereto as Appendix E, as if fully incorporated herein.

ZZ. *Source Noise* means the noise emanating from the equipment and/or the source being measured, exclusive of surrounding natural or man-made noises including, but not limited to, insects, wind, surrounding drilling or production equipment and vehicular noises.

AAA. *Tank* means a container, covered or uncovered, used in conjunction with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

BBB. *Technical Advisor* means such person(s) recognized as being familiar with and educated, certified or experienced in the gas industry, petroleum engineering, or one or more environmental sciences or the law as it relates to gas, mineral extraction or mining matters that may be retained from time to time by the Town.

CCC. *Texas Commission on Environmental Quality or TCEQ* means the Texas Commission on Environmental Quality.

DDD. *Vapor Recovery System* means any control system that utilizes vapor collection equipment to route volatile organic compounds (VOC) to a control device that reduces VOC emissions.

EEE. *Well* means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulfur water, or for the storage of drill pipe or

for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

FFF. *Well Development Site* means the site upon which drilling, fracturing, completion and other activities associated with development of a gas well are conducted. The area of the well development site includes the area within an operation site.

GGG. *Wellhead* means the surface hole location of the well.

HHH. *Workover Operations* means work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.3. ZONING DISTRICTS AND PROVISIONS FOR CONDITIONAL USE PERMITS.

A. In accordance with Appendix C Land Use Table, the placement of a well for the exploration for or the production of gas or oil is prohibited in the following zoning districts unless otherwise specifically excepted herein:

1. RE-1 Single-family residential, one (1) dwelling unit per net acre
2. RE-2 Single-family residential, 2-acre lots
3. RE-5 Single-family residential, 5-acre lots
4. MH Manufactured Home
5. RB Rural Business
6. VC Village Center
7. RLI Rural Light Industrial
8. P/SP Public/Semi-Public
9. RS Rural Services

~~**Editor's note** Ord. 564-14, sec. 9, amended section 30.3C(a). Section 30.3 has been repealed. The amendment has been incorporated as amending section 32.3.A.~~

Exception: The placement of a well for the exploration or production of oil or gas may be allowed by Conditional Use Permit only in "RE5" Single-family Residential Districts.

B. The drilling and production of gas or oil within the corporate limits of the Town shall be permitted by right within "AG" Agricultural Zoning Districts provided that a complete application has been received in accordance with this Chapter.

C. The drilling and production of gas or oil within the corporate limits of the Town may be permitted within "RE5" Single-family Residential, 5-acre lots, with the approval of a conditional use permit provided that a complete application, including an application for a conditional use permit, has been received in accordance with this Chapter and other applicable sections of the Town's zoning regulations.

(Ordinance 526-11, sec. 3, adopted 10/18/11; Ordinance 564-14, sec. 9, adopted 7/15/14; Ordinance 651-19 adopted 1/15/19)

§ 32.4. TECHNICAL ADVISOR.

A. Function. The Town may from time to time employ a technical advisor or advisors. The function of the advisor(s) shall be to advise, counsel or represent the Town on such matters relating to gas operations within the Town as the Town may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the Town.

B. Costs. In the event a technical advisor(s) is deemed necessary, for the purpose of advising, counseling or representing the Town relative to an operator's unique and particular set of circumstances, case or request relating to this Chapter, then the cost for such services of the technical advisor(s) shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this Chapter. Prior to the employment of a technical advisor, the Town shall inform the operator of the name and certifications of the technical advisor, the intended scope of work and the estimated costs and expenses. Every effort will be made by the Town to find a technical advisor that is mutually agreeable by and between the Town and the operator. The operator may be required to submit a deposit against which the costs will be assessed.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.5. GAS INSPECTOR.

A. Authority. The gas inspector, together with those officials identified in Section 32.42, is responsible for enforcing this Chapter, and other Town codes applicable to gas drilling and production.

B. Responsibilities. The gas inspector shall:

1. review and make recommendations for approval or denial of all gas well permit applications;

2. conduct inspections of a well development site and operation site to determine compliance with this Chapter and the gas well permit during the following phases of well development:

   a. well site development;

   b. drilling operations;

   c. surface casing;

   d. fracturing;

   e. completion;

   f. turning to sales; and thereafter,

3. conduct inspections of all wells and operation sites at least once a calendar quarter for compliance with this Chapter and the gas well permit.

4. conduct an inspection upon receipt of a complaint as directed by the Town Administrator.

5. issue orders or citations to obtain compliance with this Chapter and the gas well permit.

6. advise the Town Administrator on actions regarding the revocation or suspension of a gas well permit for violations of this Chapter or the gas well permit.

C. Verification of Numbers. The gas inspector, at each inspection, shall call the emergency contact numbers listed on the operator's informational signs to verify that the phone numbers are current and the emergency contact persons can be reached.

D. Written Reports Required. The gas inspector shall prepare a written report and shall forward a copy of each inspection report to the Town Administrator.

E. Violation of Other Ordinances. The gas inspector shall contact the appropriate individual to inspect the operation site if the gas inspector believes the operator is violating a Code provision not addressed in this Chapter.

F. Notice of Violations. The gas inspector shall notify the Town Administrator and contact the appropriate state agency to inspect the operation site if the gas inspector believes the operator is violating state law. The gas inspector shall determine whether the state agency completed the inspection and shall document what actions, if any, were taken against the operator.

G. Authority to Request Records. The gas inspector shall have the authority to request and receive any records, including any records sent to the Railroad Commission, logs, [and] reports relating to the status or condition of any permitted well necessary to establish and determine compliance with a gas well permit.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.6. OPERATOR'S AGENT.

A. Designation. Each operator shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Chapter may be served. The agent may be served either in person or by registered or certified mail and the operator shall designate both a physical address and a mailing address for the agent.

B. Notice of Change. Every operator so designating such agent shall notify the Town Secretary in writing of any change in such agent or such physical or mailing address within ten (10) days of the change, unless operations within the Town are discontinued.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.7. PERMIT AND APPROVALS REQUIRED.

A. Activities Requiring Approvals by the Town. No person may engage in one or more of the following activities without applying for and obtaining a permit issued by the Town:

1. Gas Well Development Plat, in accordance with the Development Regulations of the Town,

2. Gas Well Drilling Permit, and

3. Fracking Permit for activities performed after the first year a drilling permit has been issued.

B. Activities Covered by a Gas Well Drilling Permit. The following activities are covered under a gas well drilling permit:

1. drill site preparation,

2. drilling or redrilling a well,

3. operation,

4. reworking a well,

5. ~~fracing~~fracking of a well within the first year after the drilling permit has been issued,

6. re~~fracing~~fracking of a well provided it is completed within the first year after the drilling permit has been issued,

7. workover of a well,

8. gas operation activities, or

9. abandonment of a well.

C. Offense. A person acting either for himself or acting as agent, employee, independent contractor or servant for any person to drill a well, commits an offense if the person engages in or assists in any way in any activity related to gas operations without first obtaining a gas well permit.

D. Exempt. A permit shall not be required for the exploration of gas or oil provided the activities are on private property. A right-of-way permit must be submitted for exploration of gas or oil within the Town's right-of-way. Exploration of gas or oil includes geologic or geophysical activities, including, but not limited to, surveying and seismic exploration, related to the search for gas, oil or other subsurface hydrocarbons.

E. No Blanket Permit. Each proposed well hole shall require a separate permit and a permit shall not be permitted on a "blanket" basis.

F. Evidence of Authority. When a gas well permit has been issued to the operator, the gas well permit shall constitute authority for the activity for which a permit has been issued.

G. Abandoned Well. A gas well permit shall not constitute authority for reentering and drilling of an abandoned well. An operator shall obtain a new gas well permit in accordance with the provisions of this Chapter if the operator is reentering and drilling an abandoned well.

H. Existing and Annexed Wells. Provided there are no additions, alterations or other changes in activities, no additional gas well permit or filing fees shall be required for:

1. any wells that are existing, previously permitted or approved by the Town located within the Town's corporate limits on November 1, 2011;

2. any wells where drilling has commenced on November 1, 2011

3. any wells in existence that have been annexed into the town prior to November 1, 2011; or,

4. any well that was planned for the land before the 90th day before the effective date of its annexation and one or more licenses, certificates, permits, approvals or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date of the annexation proceedings were instituted.

I. Other Laws. A gas well permit is required in addition to any permit, license, or agreement required under other Town ordinances, state or federal law.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.8. APPLICATION REQUIREMENTS.

A. Generally. A gas well permit application must be in writing, signed by the mineral owner or proposed operator, if different than the mineral owner, and the owner of the surface estate of the well development site. If the application does not contain the signatures of these persons, the person who signs on behalf of the mineral owner or the surface owner must submit evidence of authority to sign, or the operator may provide a copy of an executed mineral lease or surface use agreement.

B. Form. The application and applicable fee shall be submitted to the Town Secretary. The applicant shall complete the application on a form furnished by the Town and shall provide the number of copies requested by the Town Secretary. No permit application shall be accepted or deemed complete unless accompanied by said fee.

C. Development Plat Required. No drilling or production of a gas or oil well shall begin until a gas well development plat [has been approved] that conforms with the requirements of the Chapter 10, Article 10.100, Section 10.101, Exhibit "A," [Chapter 10, Exhibit A] of the Code as amended. The development plat may run concurrently with the drilling permit application.

D. Information Required. The application shall not be deemed complete and acceptable for filing until the following information has been completed:

1. The date of the application.

2. An accurate legal description of the surface lease property proposed to be used for the gas operation, the pooled parcels included in the plat(s), the P-12 list of property owners in the lease pool(s) and the production unit and name of the geologic formation as used by the Railroad Commission. Property recorded by plat should reference subdivision, block and lot numbers.

3. An accurate legal description of the proposed well development site.

4. A detailed site plan that includes specific details regarding the projected location of the major components of the well development site showing the following:

   a. The height, size, bulk and location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, lift compressors, separators, and storage sheds.

   b. The distances between the wellhead and property lines.

   c. The location of all proposed underground pipelines and the point of connection with an off-site pipeline or a statement that there is no off-site pipeline.

   d. All ingress and egress points to the well development site.

   e. The proposed location of all fuel and power sources, including steam generation.

   f. Impacted vegetation, creeks and other topographic features.

   g. Temporary and permanent fencing.

h. Adjacent building(s) and other structures and the distance from the edge of the well development site nearest to these buildings and structures, measured in the manner required by Section 32.12.

i. The proposed location of the wellhead, tanks, ~~fracing~~fracking trucks, and other equipment expected to be on-site for longer than sixty (60) days and the distances between these objects and protected uses[.]

5. [Reserved.]

6. The following information regarding the proposed well(s):

   a. The exact and correct acreage and number of wells in the current application.

   b. Whether the application is for the first well to be drilled on the well development site and whether venting or flaring is proposed.

   c. The total number of wells planned for the well development site, and their proposed locations, including the proposed RRC well bore plat.

   d. the total number of currently permitted wells on the well development site.

   e. the total number of currently operating wells on the well development site.

   f. the total number of abandoned wells on the well development site.

7. Map showing proposed transportation route and roads, both public and private, to be used for equipment, chemicals or waste products used or produced by the gas operation.

8. Executed Road Damage Remediation Agreement with applicable fees paid.

9. A list of all trucking contractors that are required to utilize the approved truck route, along with the waste hauling permit number.

10. Proposed well name.

11. Surface owner name(s) and address(es) of the lease property.

12. Mineral lessee's name and address, and if the lessee is a corporation, the state of incorporation, and if the applicant, is a partnership, the names and addresses of the general partners.

13. If the applicant is not the mineral lessee, the applicant's name and address and if the applicant is a corporation, the state of incorporation, and if the applicant is a partnership, the names and addresses of the general partners.

14. Name and physical and mailing address of the individual agent designated by the applicant to receive notice.

15. Names, physical addresses and local telephone numbers of two representatives of the applicant who are authorized and responsible to ensure compliance with all conditions of the gas well permit, and other applicable ordinances, together with a sworn statement from each representative that he or she agrees to be responsible for ensuring that the operator's employees, contractors and subcontractors comply with all conditions of the gas well permit, and applicable laws and ordinances.

16. Location and description of all improvements and structures within one thousand (1,000) feet of the proposed well bore and one thousand (1,000) feet of the proposed locations of the tanks utilizing property surveys or the most recent Denton County aerial maps.

17. Owner and address of each parcel of property within one thousand (1,000) feet of the boundaries of the pad site.

18. A driveway plan showing internal drives and circulation.

19. A design for the sound baffling equipment surrounding the compressor.

20. An ambient air quality study which meets the requirements of Section 32.14.

21. Fence and gate specifications.

22. A landscape plan prepared by a landscape architect.

23. A tree survey meeting the requirements of Article 3.500 [Article 3.05] of this Code, as the same may be amended from time to time.

24. Copies of all reports required by the Railroad Commission and TCEQ.

25. If applicable, the names and addresses of owners within the setback distance prescribed by this Chapter for a wellhead, tanks, or other equipment and evidence of their consent to the proposed location of the same if less than the setback distances set forth in this Chapter[.]

26. A dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the drill site and the private vehicle access route, or, if a gas well permit has already been approved for the well development site, a copy of the approved plan.

27. A video documentary provided in a digital format of the existing roads to the proposed well site, of sufficient quality, as determined by the Town, to permit the Town to document the condition of the roads at issue.

28. A description of the water source to be used during drilling, the estimated quantity of water to be used, and evidence of permits or approvals for such water source and the method of transporting.

29. All material safety data sheets (MSDS) detailing the hazardous materials that will be located, stored, transported and/or used at the drill site shall be provided to the gas inspector and Fire Marshal.

30. A description of all chemicals and their concentration and quantities to be used in drilling, ~~fracing~~fracking and other operations, including a description of the substances contained in the fracturing fluid to be utilized.

31. A waste management plan that addresses management of human, solid and drilling production waste, including the method to be used for removal of produced water.

32. A description of all fuel and power sources, including steam generation, to be used at the proposed well development and operation site, including but not limited to all public utilities needed during drilling and operation.

33. A copy of the approved permit issued by the Railroad Commission to drill together with attachments and survey plats which are applicable to the drill and operation sites.

34. A copy of the Stormwater Pollution Prevention Plan as required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the Town Secretary three days prior to the commencement of any on-site activity.

35. A copy of the erosion control plan required by the Town.

36. A copy of the determination by the Texas Commission on Environmental Quality of the depth of usable quality groundwater.

37. Evidence of satisfaction of insurance and financial security requirements of this Chapter.

38. All required application and gas well permit fees.

39. The proposed gathering pipeline route from the well to the transmission pipeline.

40. The name, address and phone number of the pipeline owner and of the pipeline operator.

41. An emergency response plan which meets the requirements of Section 32.34.

42. A hazardous materials management plan meeting the requirements of the Fire Code, or, if a plan has already been approved for the well development site, a copy of the hazardous materials management plan previously approved.

43. A lighting plan, depicting all nighttime lighting to be used or occurring on the well development site and the measures to be taken to reduce glare on the properties adjacent to the site.

44. A statement, under oath, signed by the applicant, or the applicant's agent, if the agent signs the application, that the information submitted with the application is, to the best knowledge and belief of the applicant or the applicant's designated agent, true and correct.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.9. NOTICE PROCEDURES.

A. An applicant for a gas or oil permit under this chapter shall publicize a statement of the Operator's intent to file an application along with the general location of the pad site. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed prior to the Planning and Zoning meeting at which the permit is to be considered and will be prima facie evidence of such publication. The statement shall be published at least ten (10) days prior to, but not more than 30 days prior to, the date of filing an application for a Gas Well Permit under this Ordinance with the Town, [and] the Operator shall publish a notice at the expense of the Operator, in one issue of the local section of the Town's Official newspaper for ten (10) consecutive days. All notices shall follow a format required by the Town.

B. At least ten (10) days prior to, but not more than thirty (30) days prior to, the date of filing of an application for a Gas Well Permit under this Ordinance with the Town, the Operator, at Operator's expense, shall erect and maintain at least one sign, as approved by the Town, no less than three (3) feet by three (3) feet, upon the premises upon which a Gas Well Permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest Right-of-way, street, roadway or public thoroughfare adjacent to such property. The Town may require additional signage if the premises fronts on more than one Right-of-way, street, roadway, or public thoroughfare.

1. The sign(s) shall state that an application for a Gas Well Permit to drill for gas on that site has or will be filed and shall further set forth that additional information can be acquired by contacting the Operator at the number and address indicated on the sign.

2. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this Ordinance.

3. The sign shall remain posted at the pad site until final action on the permit by the Town Council.

C. Within ten (10) days after the date of filing an application for a Gas Well Permit with the Town under this Chapter, the Town shall notify, at the expense of the Operator, each surface owner of property, as shown by the current Town of Bartonville address system and current tax roll within one thousand (1,000) feet of the proposed well. Such notice, as outlined below, shall be made by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall also be placed on the Town's website.

D. The notice shall contain the information as outlined below and shall also include the date and time of the Planning and Zoning Commission and Town Council meetings at which the permit will be considered, an internet link for information on the application, the number of wells requested by the applicant, a statement that drilling may commence within one (1) year from the issuance of the permit, and contact telephone numbers for Town staff and Operator/applicant.

E. An Operator may request to amend a Gas Well Permit Application without renoticing, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the Application, provided that the distance to any Protected Uses is not decreased.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.10. PROCESSING OF APPLICATION.

A. Complete Application Required. No application shall be accepted for processing unless it is a complete application prepared in accordance with the requirements of this Chapter and other applicable ordinances and submitted in accordance with the Town's submission schedule as prepared annually by the Town Secretary.

B. Determination of Completeness. An application for approval of a gas well permit shall be subject to a determination of completeness by the Town Secretary in accordance with this Chapter.

C. No Waiver of Substantive Compliance. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Chapter or other applicable ordinances.

D. Issuance of Determination. Not later than the twentieth (20th) day after the date an application is submitted, the Town Secretary shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by this Chapter or other applicable ordinances have been submitted. If the application is deemed to be incomplete, the Town Secretary shall mail the determination that the application is incomplete by United States certified mail, to the address listed on the application or hand delivery. The determination shall specify the documents or other information needed to complete the application. If the application is determined to be incomplete, a new application

must be submitted on the following submittal date as determined by the Town's submission schedule.

E. Review of Application. An application shall not be processed for review until after a determination of completeness has been issued. The processing of an application by any Town employee prior to the time the application is determined to be complete shall not be binding on the Town as the official acceptance of the application for filing.

F. Grounds for Denial. The incompleteness of an application shall be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.

G. Appearance Before the Development Review Committee. The Town Secretary shall determine whether the application requires an appointment before the Development Review Committee. If an appointment is required, a meeting shall be set within twenty (20) days of receiving a complete application.

H. Placement on Planning and Zoning Agenda. Within 45 days of receipt of a complete application, the Town Secretary shall place the application on the Planning and Zoning agenda for their recommendation to the Town Council and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has given the Town Secretary a written request to be so notified. The Planning and Zoning Commission shall take consider [sic] the general health, safety and welfare of the Town and consider the same information as specified in Subsection J below.

I. Placement on Town Council Agenda. The Town Secretary shall place the application on the next regularly scheduled Town Council agenda following the Planning and Zoning Commission's recommendation and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has given the Town Secretary a written request to be so notified.

J. Consideration by Town Council. The Town Council shall review the application and any other related information. The Town Council shall consider the general health, safety and welfare of the Town and may also consider additional information in deciding whether to grant a gas well permit, including, but not limited to the following:

1. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there.

2. Whether the drilling of such wells would conflict with the orderly growth and development of the Town.

3. Whether there are other alternative well site locations.

4. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the gas well permit conditions to be imposed.

5. Whether there is adequate access for the Fire Department personnel and firefighting equipment.

6. Whether the emergency response plan, noise abatement plan, and other required plans meet the requirements of this Chapter and other applicable ordinances.

7. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the gas well permit conditions are reasonable and justified, balancing the following factors:

   a. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and

   b. The availability of alternative drill sites.

   c. The health, safety and welfare of the residents.

   d. The recommendations of subject matter experts.

8. Whether there are public health and safety issues concerning the particular location of the proposed well.

9. Whether the operations of the proposed well are consistent with protecting the ecological integrity and environmental quality, including protection of surface and ground water sources, of potentially impacted environmentally sensitive areas.

10. Whether the granting of a gas well permit on the specific property will adversely affect any feature of the comprehensive master plan of the Town.

11. Whether the operator proposed by the applicant is a reasonable and prudent operator. In this regard, the Town Council shall consider the number of citations issued for violations of this Chapter, the number of convictions for the violations in municipal court, notices, if any, from Town officials for the applicant's noncompliance with the provisions of this Chapter, violations submitted to or found by the Railroad Commission on previous wells permitted and drilled by the proposed operator, and similar factors.

12. Whether flaring or venting during completion of the well should be permitted.

K. Action on Application. The Town Council may accept, reject or modify the application in the interest of securing compliance with this Chapter, and/or to protect the health, safety and welfare of the community.

L. Subsequent Application. If an application for a gas well permit is denied, nothing herein contained shall prevent a new permit application from being submitted for the same well.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.11. PERMIT CONTENTS.

Each Oil/Gas Well Permit issued by the Town shall:

A. Identify the name of each well and its operator;

B. Specify the date on which the Town issued each permit and the date on which the permit expires;

C. Specify that drilling must commence on the well covered by the permit within one year of approval by the Town otherwise the permit expires. A single, extension of time up to the lesser of one year or the expiration date of the RRC permit may be recommended by the Planning and Zoning Commission and approved by the Town Council if existing conditions are the same;

D. Specify that initial ~~fracing~~fracking of the well covered by the drilling permit must commence within one (1) year of approval or permit extension by the Town. Subsequent ~~fracing~~fracking activities shall require a new ~~fracing~~fracking permit in accordance with Section 32.31;

E. Specify that once drilling has commenced, the permit shall continue until the well covered by the permit is abandoned and the site restored;

F. Incorporate, by reference, the insurance and security requirements set forth in this Chapter;

G. Incorporate, by reference, the requirement for periodic reports and notifications as set forth in this Chapter;

H. Incorporate the full text of the release of liability provisions set forth in this Ordinance;

I. Incorporate, by reference, the conditions of the applicable Development Plat or applicable Conditional Use Permit.

J. Incorporate, by reference, the information contained in the permit application;

K. Incorporate, by reference, the applicable rules and regulations of the Railroad Commission, including the applicable "field rules";

L. Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has been issued a notice to proceed in accordance with this Chapter;

M. Contain the name, address, and phone number of the person designated to receive notices from the Town, which person must be a resident of Texas that can be served in person or by registered or certified mail; and

N. Incorporate by reference all other permits and fees required by the Code of Ordinances. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.12. SETBACKS.

A. Well Bore. A well bore shall be set back a minimum of the following distances:

1. Six hundred (600) feet from any protected use.

2. Two hundred (200) feet from any accessory structure not associated with the operation of the well.

3. One hundred and fifty (150) feet from any public street, road, highway or future street or right-of-way.

4. One hundred and fifty (150) feet from any property line.

5. One hundred (100) feet from any building that is accessory, but not necessary, to the operation of the well.

6. Five hundred (500) feet from any freshwater well bore.

B. Tanks. All tanks, as defined herein, shall be set back a minimum of the following distances:

1. One hundred and fifty (150) feet from any property line.

2. One hundred and fifty (150) feet from any public street, road, highway or future street or right-of-way.

3. Six hundred (600) feet from any protected use.

C. Lift and Line Compressors and Accessory Equipment.

1. Lift and line compressors and accessory equipment shall be set back a minimum of six hundred (600) feet from any protected use.

2. Lift and line compressors and accessory equipment shall be set back three hundred (300) feet from any property line.

D. Waiver from Setback Requirements

1. Upon receipt of a notarized statement from the owner of a protected use, the setback from a compressor may be reduced from six hundred (600) feet to no closer than two hundred fifty
(250) feet.

2. Upon receipt of a notarized statement from the owner of an accessory structure not associated with the operation of a well, the setback from the well bore may be reduced from two hundred (200) feet to a distance no closer than zero (0) feet.

3. Upon receipt of a notarized statement from the owner of each surface property owner whose property line is within one hundred fifty (150) feet from a well bore, the setback may be reduced from one hundred fifty (150) feet to a distance no closer than fifty (50) feet.

4. All notarized statements must be filed in the Deed Records of Denton County before they will be accepted by the Town.

E. Method of Measurement. Measurement of the setback requirements in this Chapter shall be calculated from each object described in the is [this] section, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any protected use or other habitable structure, property line, or water well, as applicable.

F. Date of Measurement. The setback shall apply for any protected use for which a building permit has been issued on the date of the application for a gas well development plat or drilling permit.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.13. SITE AND OPERATIONAL REQUIREMENTS.

A. Pipe. No person or permit holder shall use any pipe material unless it is lead-free, biodegradable pipe dope meeting the standards set forth by the American Petroleum Institute (API). Sealant shall be used around pipe threads to ensure and maintain the integrity of the seal.

B. Blowout Prevention. The operator or permit holder must equip all drilling wells with adequate blowout preventors, and flow lines and valves commensurate with the working pressures involved, both as required by the Railroad Commission. In the event of the loss of control of any well, the operator or permit holder shall immediately take all reasonable steps to regain control regardless of any other provisions of the Chapter and shall notify the Town as soon as practicable. If the Town believes that danger to persons and property exists because of loss of well control and that the operator is not taking or is unable to take all reasonable and necessary

steps to regain control of such well, the Town may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material that the Town deems necessary to regain control of such well. The Town shall then have a valid lien against the interest of the well of all working interest owners to secure payment of any expenditure made by the Town pursuant to such action of the Town in gaining control of said well, plus a ten percent (10%) administration fee.

C. Closed-Loop Drilling Fluid Systems. An operator shall utilize closed-loop drilling fluid systems.

D. Compliance. An operator shall comply at all times with all applicable federal, state and Town requirements.

E. Drill Stem Testing. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

F. Electric Lines. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

G. Electric Motors. Only electric prime movers or motors shall be permitted for the purposes of pumping the wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the Town ordinances and the appropriate national codes.

H. Floodplain, floodway. No gas well bore shall be drilled within any floodway. No gas well bore shall be drilled within any floodplain unless all required federal and state approvals have been issued~~[.]~~

I. Grass, Weeds, Trash. The operator shall ensure that all drill and operation pad sites shall be kept clear of high grass, weeds, and combustible trash.

J. Lights. Notwithstanding the lighting and glare standards set forth in the Code, no person shall permit any lights located on any drill site or operation site to be directed in such a manner so that they shine directly on public streets, adjacent property or property in the general vicinity of the drill site or operation site. Site lighting shall be shielded and directed downward and internally so as to avoid glare on public streets, adjacent properties and buildings within two hundred fifty (250) feet.

K. Pits. No open pits are permitted. An operator commits an offense if the operator uses open pits, lined earthen mud or circulating pits.

L. Storage of Equipment. Storage of equipment shall be in accordance with Section 32.27(E) of this Chapter.

M. Casing.

1. All casing shall be run and set in full compliance with the applicable rules and regulations of the Railroad Commission.

2. Copies of reports detailing any testing data, logs or similar quality standards required by the Railroad Commission or conducted on-site to verify integrity of cementing and casing standards shall be submitted to the Town Secretary on the date submitted to the Railroad Commission~~[.]~~

N. Valves and Devices.

1. Each well must have a shutoff valve to terminate the well's production.

2. The operator shall provide the Fire Department with around-the-clock access to the well site to enable it to close the shutoff valve in an emergency.

3. The operator shall not use high bleed pneumatic devices at a well development site or operation site.

4. To the extent that API standards will permit, new and reworked valves and piping connections shall be located in a place that is reasonably accessible for leak-checking during operations.

O. Flaring and Venting.

1. A person commits an offense if the person flares or vents a well.

2. It is an affirmative defense to prosecution for a violation of subsection (1) that:

   a. the flaring is permitted by a gas well permit and the flaring is conducted in accordance with the provisions of the permit; or

   b. emergency circumstances exist such as to require flaring, there is no alternative to the flaring, and the operator has advised the Town as soon as reasonably possible.

3. After ~~fracing~~fracking or re~~fracing~~fracking a gas well, the operator shall employ such equipment and processes as soon as practicable to minimize the release into the air of gas and associated vapors from the well.

4. The operator shall:

   a. deliver all salable gas to a sales line as soon as the pressure of the gas at the wellhead is sufficient to permit the gas to flow into the line; or

   b. shut in the well to conserve the gas.

5. The operator of a gas well that has access to a sales line shall employ means or methods that minimize, to the extent technologically feasible, the release into the air of gas and associated vapors from the well when gas from the well is permitted to flow during the completion or recompletion of the well.

P. Audible Alarms Required. An automated audible alarm system shall be installed at each well site prior to the production of any gas to provide warnings for a substantial drop in pressure, the release of any gas or oil, or fire. Said audible alarm system shall be approved by the Town of Bartonville.

Q. Containment Devices. Drip pans and other containment devices or oil-absorbing materials shall be placed or installed underneath all tanks, containers, pumps, lubricating systems, engines, fuel and chemical storage tanks, system valves, connections and any other areas or structures that could potentially leak, discharge or spill hazardous liquids, semi-liquids, or solid waste materials, including hazardous waste inseparable by simple mechanical removal processes that is made up of primarily natural material.

R. Erosion Control. Erosion control measures shall be utilized for all gas wells. Damage resulting from sedimentation and/or erosion shall be repaired immediately.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.14. AIR EMISSIONS; CONTROL AND MONITORING.

A. Study required.

1. Pre-drilling. An applicant shall submit a pre-drilling ambient air study of the well development site with its application for a gas well permit. The study shall be conducted by an air quality consultant experienced in the sampling and monitoring of oil and gas upstream operations and shall meet the following requirements:

   a. Samples shall be taken at three locations specified by the gas inspector.

   b. The study shall be conducted using Summa canisters and shall utilize the TO-15 analysis, as written by the United States Environmental Protection Agency and the D1946 analytical method. The applicant may request to utilize other analytical methods by submitting a request to the Town Council.

2. Post-Drilling. After completion of the well, the operator shall submit a post-drilling ambient air study of the well development site. The study shall be conducted in the same manner as the pre-drilling study.

B. Emissions Plan Required. An applicant shall submit a plan for controlling air contaminants. The plan shall include the following information and meet the following requirements:

1. A detailed site plan showing the location of each emission source.

2. For each source, composition of emissions, expected maximum daily and hourly emissions rate.

3. For each source, detailed descriptions of the measures taken and equipment used to reduce emissions below the levels listed in subsection (C).

C. Nuisance. The emission of one or more of the following air contaminants which (i) exceed the concentration identified in the preambient air study; and, (ii) which result in a net ground level concentration (GLC) in excess of the following concentrations at or beyond the setback distance specified in this Chapter are determined to be and constitute a nuisance:

1. At any time,

   a. Benzene: 170 $\mu g/m^3$.

   b. Ethyl Benzene: 2,000 $\mu g/m^3$

   c. Formaldehyde: 15 $\mu g/m^3$.

   d. Toluene: 640 $\mu g/m^3$.

   e. Xylene, m- : 180 $\mu g/m^3$.

   f. Xylene, o- : 1,600 $\mu g/m^3$.

   g. Xylene, p- : 250 $\mu g/m^3$.

h. Condensate and/or Crude Oil: 3,500 µg/m3.

i. Natural Gas: 18,000 µg/m3.

j. For any air contaminant or compound not listed above, the limit is the short-term ESL listed for the compound in the most recently published TCEQ ESL list. For compounds not published in the TCEQ ESL list, there is no established limit.

2. When the average of three consecutive samples exceeds the following concentrations,

a. Benzene: 4.5 µg/m3.

b. Ethyl Benzene: 1,250 µg/m3.

c. Formaldehyde: 3.3 µg/m3.

d. Toluene: 640 µg/m3.

e. Xylene, m- : 180 µg/m3.

f. Xylene, o- : 180 µg/m3.

g. Xylene, p- : 180 µg/m3.

h. Condensate and/or Crude Oil: 350 µg/m3.

i. Natural Gas: 1,800 µg/m3

j. For any air contaminant or compound not listed above, the lesser of the short-term ESL or long-term ESL listed for the compound in the most recently published TCEQ ESL list. For compounds not published in the TCEQ ESL list, there is no established limit.

3. Hydrogen Sulfide (H2S): 0.08 ppm averaged over any 30-minute period.

D. Monitoring.

1. The Gas Well Inspector shall utilize a photo ionization detector to test each of the well sites at every quarterly inspection. The inspector shall determine if further testing is required.

2. In the event further testing is required, the Town shall retain an air quality consultant experienced in the sampling and monitoring of oil and gas upstream operations who shall perform periodic air sampling of an operation site to determine whether the emission limits specified in this section are exceeded.

a. Payment for the sampling shall be borne by the operator.

b. All air sampling shall be completed with Summa canisters and utilize the sampling methods specified in subsection (A).

c. All air samples shall be one hour duration.

d. All air samples shall be taken at the setback distance required by this Chapter, measured from the emission source.

e. Each time sampling is performed, the consultant shall take at least one sample directly downwind of the operation site, and one sample directly upwind of the operation site.

f. The consultant shall select the source or sources for sampling that are most likely to cause the greatest danger to residents' health and safety.

g. The consultant shall use the source or sources to determine the direction and distance for the sample.

h. The consultant shall analyze the samples, prepare a report summarizing the results, and deliver the report to the Town Administrator.

i. All costs of sampling will be borne by operator.

j. The operator may propose mathematical modeling using an EPA approved model as an alternative method of determining potential ground level concentrations. This method of modeling will require the use of direct measured emission rates and must be submitted to and approved by the Town Administrator.

E. Best Management Practices. The operator shall comply with the following best management practices:

1. All equipment at the operation site which has the potential to emit air contaminants must be maintained in good working order and operated properly during operations.

2. Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve to seal the line so that no leakage of emissions occurs. If equipped with a second valve, both valves shall be closed except during sampling.

3. Tank hatches and valves, which emit to the atmosphere, shall remain closed except for sampling or planned maintenance activities.

4. All pressure relief devices (PRD) shall be designed and operated to ensure that proper pressure in the vessel is maintained and shall function as designed. If the PRD does not automatically reset, it must be reset within 24 hours at a manned site and within one week if located at an unmanned site;

5. All seals and gaskets in VOC or H2S service shall be installed, checked, and properly maintained to prevent leaking;

6. The operator shall follow manufacturer's specifications and recommended programs for maintenance of equipment. In the absence of manufacturer's recommended programs, each site shall establish and maintain a program to replace, repair, and/or maintain equipment to keep them in good working order. Replacement and repair of equipment shall follow these established programs;

7. Damaged or leaking valves, connectors, pumps, compressors, and agitator seals found to be emitting VOCs in excess of 10,000 ppmv as determined using a portable analyzer, found by AVO inspection to be leaking (e.g., dripping process fluids), or found leaking using the Alternative Work Practice shall be tagged and replaced or repaired; and

8. To the extent that API standards will permit, new and reworked valves and piping connections shall be located in a place that is reasonably accessible for leak-checking during operations.

F. Loading Requirements. The operator shall comply with the following requirements during loading/unloading of trucks and tanks containing liquids or natural gas:

1. The operator shall maintain all tanks, valves, fittings, hatches and other equipment in such a way as to minimize the emissions of all volatile organic compounds.

2. If vacuum trucks are used at the site, vacuum pumps and blowers shall not be operated on trucks containing or vacuuming liquids with VOC true vapor pressure greater than 0.50 psi at 95F unless the vacuum/blower exhaust is routed to a control device or a controlled recovery system. Positive displacement pumps may be used.

3. The operator shall not allow condensate to be loaded into a tank truck unless the tank truck has passed a leak-tight test within the past twelve (12) months.

4. For each condensate tank truck traveling to the well development or operation site, the operator shall present the gas inspector a certification from an unrelated third party stating that the vessel has passed a leak-tight test within the past twelve (12) months.

5. When loading materials with a vapor pressure greater than or equal to 0.5 psia at maximum loading temperature, the loading emissions shall be routed to a control device.

6. The operator shall conduct loading operations at all loading/unloading facilities, without visible liquid leaks or spills regardless of vapor pressure. The foregoing does not apply to momentary dripping associated with the initial connection or disconnection of fittings.

7. Sustained dripping from fittings during loading/unloading operations is not permitted unless drip pans or other containment devices are in place.

8. The operator shall report to the TCEQ and to the gas inspector any liquid spill that occurs during loading/unloading activities that results in emissions that exceed a reportable quantity pursuant to Title 30 Texas Administrative Code sections 101.201 or 101.211 (30 TAC sections 101.201 or 101.211).

9. The operator shall cause a visual inspection of all lines and connectors to be made prior to hookup.

10. The operator shall cause any lines and connectors that are visibly damaged to be removed from service. Operations shall cease as soon as safely possible upon detection of any liquid leaking from the lines or connections.

G. Intent. This Section 32.14 is adopted to carry out the authority granted the Town pursuant to Sections 382.111 through 382.113 of the Texas Health and Safety Code.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.15. NOISE STANDARDS AND MONITORING.

A. Minimum Standards. No gas well shall be drilled, redrilled, or reworked at any location within the Town in such a manner so as to create any noise which causes the exterior noise level when measured three hundred (300) feet from the wellhead or closest protected use whichever is closer that:

1. exceeds 60 dB at any time of the day;

2. creates pure tones where one-third octave band sound-pressure level in the band with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hertz and above, and by 8 DB for center frequencies between 160 and 400 Hertz, and by 15 dB for center frequencies less than or equal to 125 Hertz; or

3. creates low-frequency outdoor noise levels that exceed the following dB levels:

   16 Hz octave band: 65 dB

   32 Hz octave band: 65 dB

   64 Hz octave band: 65 dB

   When noise contains strong pure tone components or is impulsive, 2 dB shall be subtracted from the appropriate limitation.

4. In determining compliance, the formula listed in Subsection B(2) may be used where r1 shall be the closest distance to the well were a sound reading may be safely obtained.

B. Compressors.

1. All compressors and other mechanical equipment not associated with drilling and ~~fracing~~fracking that is designed to be on-site longer than ninety (90) days must meet the requirements of Section 32.32.

2. All compressors shall not exceed 40 dB at three hundred (300) feet from the source of the noise. Compliance shall be determined by measuring the noise level twenty (20) feet from the noise source on all four sides and taking the average decibel reading. Average readings in excess of 64 dB shall indicate that the compressor is not in compliance with this subsection by utilizing the following formula:

$$r2 = r1 * 10_{(L1 - L2)/20}$$

   Where r1 is the reference distance from the sound source (in this case 20 feet) And r2 the second reference distance from the sound source (in this case 300 feet) And L1 is the sound level at r1 (in this case 63.52 dB)
   And L2 is the sound level at r2 (in this case 300 ft.)

C. Standard for Measuring Equipment.

1. The sound level meter used in conducting noise evaluations shall meet the American National Institute's Standard for a sound meter or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

2. Measurements shall be taken using the A-weighted sound pressure intensity measurement scale.

D. Monitoring Required. During drilling, reworking, ~~fracing~~fracking, construction and workover operations of gas wells, the operator shall continuously monitor the noise levels to ensure compliance. The cost of such monitoring shall be borne by the operator. Upon request, the operator must submit reports to the Town of said monitoring activities.

E. ~~Fracing~~Fracking Operations. All formation ~~fracing~~fracking operations shall be conducted during daytime hours. At no time shall fracking operations exceed 70 dB. "Flowback" operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions.

F. Site Development. No construction activities involving excavation of, demolition of, alteration to, or repair work on any access road or pad site, shall occur during nighttime hours.

G. Workover Operations. All workover operations shall be restricted to daytime hours. "Workover operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production. For fracking operations, refer to Subsection E above.

H. Sound Baffling Devices. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the Gas Inspector may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and subject to approval by the Gas Inspector.

I. Vehicle Operations. During nighttime operations, the operation of vehicle audible backup alarms shall be prohibited or replaced with approved nonauditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The Derrick Man and Driller shall communicate by walkie-talkie or other nondisruptive means only when the Derrick Man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The operator shall conduct on-site meetings to inform all personnel of nighttime operations noise control requirements.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.16. INSURANCE AND INDEMNIFICATION.

A. Insurance Required. The operator shall provide or cause to be provided the insurance described below for each well for which a Gas/Oil Well Permit is issued such insurance to continue until the well is abandoned and the site restored. Such coverage shall be approved by the Town Council.

B. Indemnification and Express Negligence Provisions.

1. Each Oil/Gas Well Permit issued by the Town shall include the following statement: "Operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now have or may have, or assigns may have, or claim to have, against the Town of Bartonville, and/or its departments, it agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a Gas/Oil Well Permit and the operator caused by or arising out of, that sequence of events which occur from the operator under the Gas/Oil Well Permit and work performed by the operator shall fully defend, protect, indemnify, and hold harmless the Town of Bartonville, Texas, and/or its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the Town of Bartonville, Texas, and/or its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the

performance of the work performed by the Operator under a Gas/Oil Well Permit and, the Operator agrees to indemnify and hold harmless the Town of Bartonville, Texas, and/or its departments, and/ or its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the Town and/or, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the Town of Bartonville occurring on the drill site or operation site in the course and scope of inspecting and permitting the oil/gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE NEGLIGENCE OF THE TOWN OF BARTONVILLE OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL/GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE TOWN OF BARTONVILLE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE TOWN OF BARTONVILLE, TEXAS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE. LIABILITY FOR THE SOLE NEGLIGENCE OF THE TOWN IN THE COURSE AND SCOPE OF ITS DUTY TO INSPECT AND PERMIT THE OIL/GAS WELL IS LIMITED TO THE MAXIMUM AMOUNT OF RECOVERY UNDER THE TORT CLAIMS ACT."

2. All operators must provide the Town with thirty (30) days' advanced written notice that the policy will be cancelled or nonrenewed except when the policy is being cancelled for nonpayment of premium, in which case ten (10) days' advance written notice is required.

3. Liability policies shall be written by carriers licensed to do business in Texas and with companies rated "A" or better by A.M. Best approved by the Town. The "A" rating by A.M. Best shall be maintained for the policy period.

4. Liability policies shall name as "Additional Insured" the Town and its officials, agents, employees, and volunteers.

5. The policy phrase "other insurance" shall not apply to the Town where the Town is an additional insured on the policy and each policy shall be primary and noncontributory.

6. All liability policies shall include a blanket waiver of subrogation.

7. The operator shall present to the Town copies of the pertinent portion of the insurance policies evidencing all coverage and endorsements required by this section before the issuance of a permit.

8. Certificates of insurance must be presented to the Town evidencing all coverages and endorsements required by this Chapter.

9. The acceptance by the Town of a policy without the required limits and/or coverage shall not be deemed a waiver of these requirements.

10. After the insurance of the well permit, the Town may require the operator to provide a copy of the most current insurance coverage and endorsements for review at any time. An

administration fee in the amount set in the Town's fee schedule will be charged to cover the cost of such reviews.

11. Claims-made policies will not be accepted except for excess policies or unless otherwise provided by this Ordinance.

C. Minimum Amounts.
The operator shall maintain insurance coverage for the activities permitted in this Chapter in the following minimum types and amounts:

1. Commercial liability coverage for bodily injury and property damage coverage in a minimum combined single limit of ten million dollars ($10,000,000.00) per occurrence with an annual general aggregate coverage of twenty million dollars ($20,000,000.00). This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground reservoir (or resources), broad form property damage, independent contractor's protective liability and personal injury.

2. Underground reservoir (or resources) damage coverage issued on an occurrence basis, shall not be limited to sudden and accidental occurrences, shall not have a discovery or reporting limitation and shall not exclude damage to water tables, formation or strata.

3. Environmental impairment (or seepage and pollution) coverage, shall be maintained in an amount of at least two million dollars ($2,000,000.00) per loss, with an annual aggregate of at least twenty million dollars ($20,000,000.00) for environmental pollution liability applicable to bodily injury, property damage, including loss of use of that damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with a loss arising from the insured site.

    1. Coverage shall apply to sudden and accidental pollution conditions resulting from escape or release of smoke~~[,]~~ vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

    2. The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the Town.

    3. A discovery period for such peril shall not be less than ten years after the occurrence.

    4. Automobile Liability Insurance. Minimum Combined Single Limit of ten million dollars ($10,000,000.00) per occurrence for Bodily Injury and Property Damage. Such coverage shall include owned, non-owned, and hired vehicles.

    5. Worker's Compensation Insurance. In addition to the minimum statutory requirements, coverage shall include Employer's Liability limits of at least one million dollars ($1,000,000.00) for each accident, one million dollars ($1,000,000.00) for each employee, and a one million dollar ($1,000,000.00) policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the Town, its officials, agents, employees, and volunteers for any work performed for the Town by the operator.

6. Excess (or umbrella) liability insurance in a minimum limit of $20,000,000.00 providing excess coverage for each of the perils insured by the preceding liability insurance policies.

7. Control of well insurance with a minimum limit of ten million dollars ($10,000,000.00) per occurrence, with a maximum deductible of two hundred and fifty thousand ($250,000.00) per occurrence. The policy shall cover the following:

    1. The cost of controlling a well that is out of control, redrilling or restoration expenses, seepage and pollution damage.

    2. Damage to Property in the Operator's Care, Custody, and Control with a sub-limit of five hundred thousand ($500,000.00) may be added.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.17. SECURITY.

A. Cash Bond Required. Prior to the issuance of a gas well permit, the operator shall file with the Town a cash bond in the minimum amount of $125,000.00 for any single well or a blanket bond in the amount of $375,000.00 that will cover up to five wells on a single pad site. The bond must provide that it cannot be cancelled without at least thirty (30) days' prior written notice to the Town except when the policy is being cancelled for nonpayment of premium, in which case 10 days' advance written notice is required.

B. Increase in Required Bond Amount. The Town Council may increase the required amount of the bond if the Town Engineer determines that additional security is necessary to protect against damage to Town streets as a result of the vehicle routes to be utilized for travel to and from the well development site and operation site, or, using the ASHTO standards, the expected life of a street will decrease as a result of the operator's activities, or there are other circumstances, based on the operator's prior actions, which require additional security.

C. Purpose of Bond. As to each well, the cash bond shall secure the obligations of the operator to do the following:

    1. Comply with the road damage remediation agreement and the insurance provisions set forth in this Chapter; and

    2. Pay fines and penalties imposed upon the operator by the Town for any breach of the well permit or this Chapter if the operator fails to pay such fines or penalties within 30 days of the assessment of such fines or penalties; and,

    3. Comply with the performance obligations of this Chapter.

D. Condition of Bond.

    1. The bond shall become effective on or before the date of the gas well permit is issued and shall remain in force and effect for at least a period of six months after the expiration of the gas well permit term or until the well is plugged and abandoned and the site is restored to the reasonable satisfaction of the Town Administrator, whichever occurs later.

    2. The Town shall be authorized to draw upon the bond to recover any fines or penalties assessed under this Chapter or any other costs or work for which the operator is assessed and fails to pay.

3. Any operator who initially posted a cash bond, and whose well is in compliance with these regulations, is in the producing stage and all drilling operations have ceased, may submit an application to the Town to reduce the bond to $25,000.00. When determining whether the bond should be reduced, the Town Council will take into consideration circumstances based on the operator's prior actions. During reworking operations, the amount of the bond shall be maintained at the original amount required.

E. Termination of Bond. The security will terminate when the Gas/Oil Well Permit is transferred, with respect to the operator-transferor and if the operator-transferee provides replacement security that complies with this section, when the well is abandoned and the site restored, and when the Town consents in writing to such termination.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.18. FORFEITURE OF BOND PROCEEDS.

A. Notice by Town. Whenever the Town finds that a default has occurred in the performance of any requirement or condition imposed by this Chapter or a gas well permit the cure for which requires the performance of work or expenditure of funds, written notice shall be provided to the operator. The notice shall specify the work to be done, the estimated cost and the period of time deemed by the gas inspector or other authority assigned by the Town to be reasonably necessary for the completion of such work. Provision of the notice shall not affect the Town's rights to enforce the requirements of the gas well permit, the revocation of the permit or other provisions of this Chapter.

B. Abatement by Town. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the Town the estimated cost of the work to be done as set forth in the notice, the Town may cause the work to be performed to abate the noncompliance, forfeit the costs by application of the bond proceeds and/or abate the default by way of civil action against the operator.

C. Fines and Penalties. The Town shall be authorized, but not required, to forfeit the bond to recover any amount due from the operator to recover any fines or penalties assessed under this Chapter.

D. No Waiver to be Implied. The failure of the Town to draw against such security shall not be deemed a waiver of any claim against the operator. Upon receipt of such monies, the Town shall proceed by such mode as deemed convenient to cause any required work or condition to be performed and completed, but no liability shall be incurred other than for the expenditure of the sum in hand.

E. Abandonment of Well. In the event that a well has not been properly abandoned under the regulations of the Railroad Commission, the Town may require such additional monies from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this Chapter.

F. Release of Bond. When the well has been abandoned in conformity with all regulations of this Chapter, and in conformity with all regulations of the Railroad Commission and the Town has received notice and the gas inspector has determined that the site has been restored as nearly as is possible to its original state, the bond shall be terminated and cancelled, and the Town shall return the funds to the operator.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.19. VEHICLE ROUTES.

A. Generally. The vehicle route used by the operator and permit holder, its employees and contractors shall be limited to collectors and thoroughfares as those terms are defined by the Town's comprehensive plan. The vehicle route map must be approved by the Town Council with the permit application. The applicant must demonstrate that the roads intended to be used are adequate and have sufficient capacity to safely accommodate the demand generated by the proposed well. The applicant must provide the expected demand in total trips.

B. Applicable Vehicles. Vehicles associated with drilling and/or production in excess of three (3) tons shall be restricted to streets as designated on the vehicle route plan.

C. Change in Route. If the operator proposes to change the approved route, the Town Administrator shall submit the proposed route to the Town Council for its approval. The Council must approve any change in the route approved with the issuance of the gas well permit.

D. Private Roads and Drill Sites. Prior to the commencement of any drilling operations, the operator shall install all access drives and/or improve private roads in accordance with Section 32.27(D)(1) of this Chapter. All private roads used for access to the well development site and the operation site itself to be at least fourteen feet (14') wide, have an overhead clearance of fourteen feet (14') and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud. The operator shall ensure that all private roads are maintained to continuously allow the passage of emergency vehicles.

E. Offense. The operator commits an offense if the operator or a subcontractor or contractor of the operator drives a truck or vehicle on a road other than the vehicle route approved in the gas well permit.

F. Hours of Travel. All truck deliveries of equipment and materials, associated with the drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to daytime hours except in the case of fires, blowouts, explosions and any other emergencies where the delivery of equipment is necessary for public health and safety reasons.

G. Additional Travel Limits. The Town Council may place reasonable conditions, as part of a permit under this chapter, to regulate the operation of truck traffic by contractors and subcontractors to restrict deliveries and the operation of vehicles to alleviate unsafe road conditions, i.e. school start and end times.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.20. ROAD DAMAGE REMEDIATION AGREEMENT.

A. Remediation. As a condition of the gas well permit, the operator must execute a road damage remediation agreement with the Town that provides that, if the permit is granted, the operator shall repair, at the operator's own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of gas wells.

B. Execution of Agreement. The Town Administrator shall be authorized to execute the Agreement provided the Town Council has approved the form of the agreement and Applicant has submitted the bond required by Section 32.17.

C. Mitigation. Before the operator may commence activities at the well development site, the operator must pay a roadway damage remediation fee in the amount based upon current replacement costs for concrete and asphalt road sections, including the costs of materials and labor, and administration as set forth in the Town's fee schedule. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.21. USE OF TOWN RIGHT-OF-WAY; AGREEMENT.

A. Easement or License Required. No operator shall excavate or construct any lines for the conveyance of fuel, oil, gas or petroleum liquids on, under or through the streets, alleys or other properties owned by the Town without an easement or right-of-way license from the Town, and then only in strict compliance with this Chapter, other Town ordinances, and all requirements of the Town Engineer.

B. No Drilling on Surface of Town Right-of-Way. No well permit shall be issued for any well to be drilled on the surface of the public rights-of-way of the Town and/or future streets.

C. Consent of Town Required for Temporary Closure. No street shall be blocked or encumbered or closed due to any exploration, drilling or production activities unless prior consent is obtained from the Town.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.22. PRE-DRILLING REQUIREMENTS.

A. Meeting Required. No construction activities involving excavation of, demolition of, alteration to, or repair work on any access road or pad site or any drilling, fracking or reworking operations may be conducted until such time a "Pre-drilling Meeting" has been conducted, the purpose of which shall be to ensure that the operator and all subcontractors are aware of the permit requirements, including but not limited to, the noise standards and official vehicle route as approved in the permit.

B. Scheduling of Meeting. The Pre-drilling Meeting shall be conducted at least seventy-two (72) hours prior to the commencement of the aforementioned activities.

C. Contact Information. The operator shall provide the Town with the contact information, including name, address and 24-hour contact person for all of the subcontractors that will be accessing the drill site with vehicles in excess of three (3) tons.

D. Required Attendance. Each and every contractor specified in subsection A. of this section shall have a representative present at the Pre-drilling Meeting.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.23. HOURS OF OPERATION; WORK HOURS.

A. Daytime Operations. A person commits an offense if the person engages in the following activities at a well development or operation site at a time other than daytime hours:

1. Site development, other than drilling;

2. All workover or reworking operations;

3. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, and other related work conducted on the well development site or operation site;

4. Open hole formation or drill stem testing; or

5. Fracking operations.

B. Affirmative Defense. It is an affirmative defense to prosecution for a violation of Subsection C that an emergency exists.

C. Additional Restrictions.

1. The Town Council may further restrict the timing of truck traffic deliveries to or pickups from the well development site or operation site as a condition of the gas well permit as provided for in Section 32.19 of this Chapter.

2. When a gas well permit authorizes flaring, the operator shall not flare except as follows:

a. On Mondays through Fridays, excluding the holidays listed in Subsection E below; and

b. For a period not to exceed 36 hours.

D. Permitted Nighttime Operations. The operator shall comply with the following requirements during permitted nighttime operations:

1. the operation of the vehicle audible backup alarms shall be prohibited and replaced with approved nonauditory signaling systems, such as spotters or flagmen.

2. The derrick man and driller shall communicate by walkie-talkie or other nondisruptive means used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only).

3. The operator shall conduct on-site meetings to inform all personnel of nighttime operations noise control requirements.

E. Fracking. Fracking operations shall be conducted Monday through Friday and shall not be conducted on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following, Christmas Eve and Christmas Day.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.24. SCHEDULE OF ACTIVITIES, NOTICES AND INSPECTIONS.

A. Schedule Required. Upon issuance of a gas well permit, the operator shall file with the Town Secretary a written schedule of the proposed sequence of drilling and completion activities. In the event of a change to this schedule, the operator shall submit an amended schedule to the Town Secretary.

B. Posting of Schedule. The operator shall post a copy of the schedule at the construction trailer or other accessible location on the well development site.

C. Notice to Proceed. The Town Administrator shall issue the operator a written notice to proceed which shall authorize the operator to commence activities at the well development site upon determination that the following have been satisfied:

1. The video of the roads as submitted by the applicant accurately and satisfactorily depicts the road conditions.

2. The applicant has complied with all conditions imposed by the Town Council with the approval of the gas well permit.

D. Offense. A person commits an offense if the person performs work at a well development site before a notice to proceed has been issued.

E. Well Bore Casing. The operator shall notify the Town's gas inspector by phone or in writing, if no answer, at least 12 hours prior to the scheduled time for cementing the well bore casing.

F. Completion.

1. The operator shall notify the gas inspector by phone or in writing, if no answer, at least seventy-two (72) hours prior to starting completion procedures such as perforating, fracking and flaring.

2. The operator shall not fracture more than the first well drilled on a lease or unit site unless there is a sales line in place to transport the gas.

G. Pipeline. The operator shall notify the gas inspector by phone or in writing, if no answer, at least 72 hours prior to the first sale.

H. Final Inspection. After the site has been cleaned up, the operator shall notify the gas inspector for a final inspection. Prior to the final inspection, the operator must provide the Town with geographic coordinates of the well bore, using the North American Datum 1983 (NAD 83), Texas State Plane - North Central Zone (4202), in U.S. feet.

I. Lift Compressor. If the operator determines that a lift compressor is required, the operator shall notify the gas inspector by phone or in writing, if no answer, at least seventy-two (72) hours prior to the installation of the compressor.

J. Flaring. If the gas well permit authorizes the operator to flare, the operator shall notify the property owners within one thousand (1,000) feet of the well development site at least seventy-two (72) hours prior to the time proposed for flaring.

K. Additional Notification Requirements.

1. Operators shall provide the gas well inspector and Fire Marshal seventy-two (72) hours' notice prior to any of the following events:

a. Spudding the well;

b. Exchange of compressor;

c. Delivery of explosives;

d. Delivery of flammable or combustible liquids, excluding gasoline or diesel fuel; or

e. Reworking of the well.

2. Operators shall provide the gas inspector and the Fire Marshal twenty-four (24) hours' notice following any of the following events:

a. A hazardous materials release or incident;

b. Shutting in of a well for emergency safety reasons.

L. Notice on Website. Town staff will make every reasonable effort to publish notifications set forth in Subsection K of this section as soon as practical. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.25. PERMANENT SIGNS.

A. Sign Required. The operator shall display a sign which meets the requirements of the Railroad Commission and this section at each gate on the site fencing erected at the well development and operation site.

B. Construction Requirements. The sign shall be a permanent, weatherproof sign, maintained in good condition and designed to meet the following requirements, unless otherwise required by the Railroad Commission or Town Council:

1. The sign shall have a surface area of not less than three square feet;

2. well name and number;

3. name of operator;

4. the emergency 911 number;

5. address; and

6. telephone numbers of two persons responsible for the well who may be contacted in case of emergency.

C. No Smoking Sign. Immediately upon completion of the well site fencing, the operator shall display, at each entrance to the well site a permanent weatherproof sign reading "DANGER NO SMOKING ALLOWED," which shall conform to the approved sign plan and meet the following requirements:

1. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background.

2. Each sign shall include the emergency notification numbers of the Fire Department and the operator, and the well and lease designations required by the Railroad Commission.

D. Vehicle Route Map. A permanent weatherproof sign at least four feet (4') by eight feet (8') in size shall be installed at the site exit point, indicating the vehicle route map and specifying "NO RIGHT TURN" or "NO LEFT TURN" in conformance with said approved vehicle route map.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.26. FRESHWATER WELLS.

A. Cathodic Protection System. The operator shall, within 120 days of the completion date, equip each well with a cathodic protection system to protect the production casing from external corrosion, unless the gas inspector approves an alternative method of protecting the production casing from external corrosion.

B. Analysis Required. The operator of a well shall provide the gas inspector with a "pre-drilling" and "post-drilling" water analysis and flow rate from any existing freshwater well logged with the Texas Water Development Board within one-quarter (1/4) mile of the well. The tests shall conform to the following testing requirements:

1. Water samples must be collected and analyzed utilizing proper sampling and laboratory protocol from a U.S. Environmental Protection Agency or Texas Commission on Environmental Quality approved laboratory.

2. Well samples shall be analyzed prior to any drilling activity to document baseline water quality data of the well. A post-drilling sample for analysis shall be submitted by the operator no sooner than two months and no later than three months after the drilling begins.

3. Parameters to be tested for, include but are not limited to methane, chloride, sodium, barium and strontium.

C. Waiver of Testing. If it is found that the freshwater well is no longer in use and without possibility of future use or if the freshwater well owner objects to having the water well tested, the owner of the freshwater well may waive the right to have the operator test the water. In such instance, the owner must execute an indemnity agreement releasing and holding harmless the Town, its officers and employee from any claims and/or damages.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.27. ON-SITE REQUIREMENTS.

A. Fencing. All production equipment on the pad site shall be completely enclosed by a permanent chain-link fence eight (8) feet in height with a secured gate within twenty (20) days after the installation of said production equipment. The equipment may be enclosed in a single fence, or components may be fenced separately. The gates shall remain locked when operation personnel are not present. Fences shall not be required on drill sites during initial drilling, completion or reworking operations as long as 24-hour on-site supervision is provided.

B. Tanks. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Marshal. The top of the tanks shall be no higher than fifteen (15) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of this Chapter, the Railroad Commission and the National Fire Protection Association.

C. Signage. In accordance with Section 32.25 of this Chapter.

D. Access Drives.

1. All private roads used for access to the drill site and the operation site itself shall be at least fourteen (14) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with milled asphalt, crushed rock, gravel or ore and maintained to prevent dust and mud, except from the edge of the roadway to the lesser of, seventy (70) feet inside the property line or the installed gate, which must be surfaced with a minimum of eight inches (8") of concrete. All secured access gates shall be equipped with a ~~knox~~Knox lock and shall be set back a minimum of seventy (70) feet from the right-of-way. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Town Engineer and/or Gas Inspector after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.

2. All private roads used for access to the drill site that connect to public rights-of-way shall be angled in such a way as to encourage vehicular traffic to enter and exit the site in a manner that complies with the approved truck route. Additionally, all private roads shall have a drainage culvert constructed and installed in conformance with Chapter 3, Article 3.1000, Section ~~3.1003 [Section~~ 3.09.104~~]~~, and Culvert Construction Standards of this Code.

E. Storage. On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well.

1. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.

2. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The Town Engineer, Fire Marshal or Gas Inspector shall determine whether equipment on the site shall constitute a fire hazard.

3. Portable fracking tanks shall be removed within sixty (60) days following the completion of fracking activities.

F. Fire Suppression. All fire suppression and prevention equipment required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the operator.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.28. WASTE MANAGEMENT PLAN.

A. Drilling Waste Disposal. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, redrilling, reworking or deepening of any well shall be discharged into a closed loop mud system.

B. Frequency of Waste Removal. Unless otherwise directed by the Railroad Commission, waste materials shall be removed from the site and transported to an approved off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.

C. No Pollution. All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the State, this Chapter and any other applicable ordinance of the Town.

D. Disposal of Salt Water. The operator shall make adequate provisions for the disposal of all salt water or other impurities which may be brought to the surface from the depth of the well. No salt water pits, vats or other open storage of salt water shall be permitted within the Town. No salt water disposal wells shall be located within the Town of Bartonville.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.29. CHEMICAL AND MATERIALS STORAGE.

A. Manner of Storage. The operator shall store all chemicals and/or hazardous materials in such a manner as to prevent, contain and facilitate rapid remediation and cleanup or any accidental spill, leak or discharge of a hazardous material.

B. Hazardous Materials Management Plan. A Hazardous Materials Management Plan shall be on file with the Town Secretary. The plan shall include contact information for the operator's preferred hazardous materials management company that may be contacted in the event of a hazardous materials discharge.

C. MSDSs. The operator shall maintain all material safety data sheets (MSDSs) for all hazardous materials on-site.

D. Compliance with Laws. The operator shall comply with all applicable federal and state regulatory requirements for the proper labeling of containers.

E. Use of Pallets. The operator shall take all appropriate pollution prevention actions including but not limited to raising chemical and materials and bulk storage (e.g., placing such materials on wooden pallets) and providing adequate protection from stormwater and weather elements.

F. Unlawful Disposal. No person shall place, deposit, or discharge (or cause or permit to be placed, deposited, or discharged) any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, or any refuse, including wastewater or salt water brine, from any gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property within the corporate limits of the Town.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.30. TANKS.

A. Generally. An operator must use portable closed steel storage tanks for storing liquid hydrocarbons.

B. Equipment. All tanks must have a vent line, flame arrester system and pressure relief valve.

C. Standards. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Chief. The top of the tanks shall be no higher than fifteen (15) feet above the terrain surrounding the tanks.

D. Secondary Containment. All storage tanks, including temporary flowback tanks, shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet in height and one and one-half times the contents of the largest tank in accordance with the Fire Code, and buried at least one foot below the surface.

E. Flowback Tanks. Temporary flowback tanks shall be removed from the well development site within sixty (60) days after the date of completion of the gas well(s).

F. Control Device. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.

G. Floodplain. No meters, storage tanks, separation facilities, or other above-ground facilities, shall be placed in the floodway identified by FEMA on the most current FIRM or the 100-year floodplain map as adopted by the Town.

H. Drip pots. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.

I. Lightning Arrestor. All tank facilities shall be equipped with a lightning arrestor system. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.31. FRACKING.

A. Permit Required. Initial fracking operations are covered under the drilling permit for a period of one year from the date of approval of the drilling permit. Subsequent fracking operations require the application of a new fracking permit valid for a period of six (6) months. Upon application of a fracking permit, the applicant shall provide the following:

1. A completed application on forms provided by the Town;
2. Application fee as set forth in the Town's adopted fee schedule;
3. A list of chemicals, including concentrations and quantities, to be used in the fracking process;
4. Proof of compliance with Section 32.16 Insurance and Indemnification;
5. Proof of compliance with Section 32.17 Security;
6. An updated Road Damage Remediation Agreement as required by the Town Engineer; and
7. If fracking operations have already been performed for the unit, testing reports from all water wells within one-quarter (1/4) mile radius.

The Town Secretary shall forward all applications for fracking permits to the Planning and Zoning Commission for review. The Planning and Zoning Commission shall review each application and shall make recommendations regarding the applications to the Town Council.

B. Fracking Requirements. The following requirements shall apply to all fracture stimulation operations performed on a well:

1. At least seventy-two (72) hours before fracking operations are commenced, the Operator shall notify the Town and post a sign at the entrance of the well site advising the public of the date the operations will commence;
2. A watchman shall be required at all times during approved nighttime operations; and
3. At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

C. Freshwater fracture pits

1. The construction of freshwater fracture pits shall require a permit from the Town after review by staff and the Town Engineer.

2. All pumps and equipment associated with pumping water from the freshwater frac pits must meet the noise requirements of Section 32.15 of this chapter.

3. All temporary pipes used to transport freshwater from the frac pits must obtain the required right-of-way permits if utilizing the Town's right-of-way.

4. No freshwater fracture pit may be placed in any Town recognized drainageway, FEMA floodplain or floodway, existing right-of-way or easement.

5. Construction and maintenance of the freshwater fracture pit must comply with all local, state and federal regulations.

6. All pits shall meet the following requirements:

   a. Freshwater fracture pits shall not be lined with a synthetic impervious liner unless approved by the Town. Existing liners shall be removed at the time any pit is reworked, enlarged, restored, refilled or altered unless otherwise authorized by the Town;

   b. The freshwater fracture pit shall be designed to look like a rural stock pond with slopes no greater than 4 to 1;

   c. Pits shall be maintained in a manner utilizing Best Management Practices to ensure the integrity of pit walls and liners. For purposes of this subsection, "Best Management Practices" shall mean structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control water storage in open pits in an urban or rural setting;

   d. No oil and gas waste byproducts, salt water or other chemicals designed to kill fish or wildlife shall be allowed in the Freshwater Fracture Pit; and

   e. A sign shall be installed at a conspicuous place or places on the property near any right-of-way, street, road, or public thoroughfare. The sign shall provide the Operator's phone number for additional information.

7. The operator shall enter into a specific surface use agreement with the surface owner that provides for the maintenance and operation of the fracture pond when the pond is no longer under the control or use of the operator or that the operator will restore the property to its condition prior to the construction of the fracture pond. The agreement shall be provided to the Town. The Town shall be notified when the operator relinquishes control to the owner.

8. Periodic environmental tests may be required by the Town. All costs for testing shall be borne by the permit holder of the Freshwater Fracture Pit. All samples collected for testing shall be witnessed by the Gas Inspector or other designated Town personnel.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.32. COMPRESSORS.

A. Lift compressors. Lift compressors are permitted provided that they meet all of the requirements of this Chapter, including the noise standards in Section 32.15 regardless of how long the compressor will be on-site. No permit holder may allow the use of a lift compressor for any off-site pipeline or well. The compressor location must be indicated on the gas well development plat. The Operator may administratively amend the development plat to indicate the addition of

a compressor with the approval of the Mayor and the Planning and Zoning Chairperson. The Mayor or Chairperson may choose to send the amended development plat to the Planning & Zoning Commission and the Town Council. The Operator must submit to the Town a design of the on-site compressor, including any permanent sound baffling materials to maintain with the permit file.

B. Line compressors. Line compressors are prohibited within the Town of Bartonville.

C. Temporary Use. Any lift compressor located on the drill site for a period of less than 90 days shall be considered a temporary compressor. All temporary uses shall require, at a minimum, the installation of a sound-baffling device (i.e. sound blankets) that completely surrounds the equipment. All temporary uses must meet the noise standards of this Chapter.

D. Permanent Use. Any lift compressor located on a drill site for a single period of ninety (90) days or more shall be considered a permanent use. Any compressor or combination of compressors that are on the well site for more than ninety (90) days in a calendar year will be considered a permanent use.

E. Prior Notice. The operator shall notify the Town Secretary and gas inspector of the date a lift compressor is installed.

F. Location. A lift compressor shall be restricted to the operation site for which a gas well permit has been issued.

G. Screening for Air Emissions and Noise Pollution. All compressors of a permanent nature shall be surrounded by a permanent structure composed of four walls to protect residents from noise pollution and air emissions. All structures shall be designed in such a way that is compatible with a rural environment and shall be equipped with an LEL detector.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.33. CLEANUP AND MAINTENANCE.

A. Cleanup after Well Servicing. After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within thirty (30) calendar days.

B. Cleanup After Spills, Leaks and Malfunctions. After any discharge, leak or malfunction from any pit, pond, wellhead or other equipment, the operator shall remove or cause to be removed, to the satisfaction of the Fire Chief and the gas inspector, all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner or operator fails to begin site cleanup within twenty-four (24) hours, the Town shall have the right to contact the Railroad Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

C. Free from Debris. The property on which a well site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of one hundred (100) feet around any separators, tanks and producing wells.

D. Painting. All production equipment shall be painted and maintained in good working order at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the gas inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, to the extent allowed by the TCEQ, compatible with

surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the gas inspector.

E. Offense. A person commits an offense if the person places, deposits or discharges or causes or permits to be placed, deposited or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, refuse, wastewater, brine or hazardous substance from any production operation or the contents of any container used in connection with any production operation in, into or upon any public right-of-way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property in the Town.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.34. EMERGENCY RESPONSE PLANS.

A. Emergency Response Plans and Incident Reporting. No drilling or other production activity shall commence until an emergency response plan has been approved by the Town.

B. Requirements. Each gas or oil well owner or operator shall maintain written procedures to minimize the hazards resulting from an emergency and shall provide a copy of these procedures to the Town Secretary. These procedures shall include, at a minimum:

1. Prompt and effective response to emergencies regarding:

   a. Leaks or releases that can impact public health, safety, welfare;

   b. Fire or explosions at or in the vicinity of an oil or gas well; or

   c. Natural disasters;

2. Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency;

3. The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency;

4. Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;

5. Emergency shutdown of an oil or gas well and related site;

6. The safe restoration of service and operations following an emergency or incident;

7. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

8. Any other emergency protection measure reasonably necessary to protect the general health, safety and welfare of the Town.

C. Annual Meeting. Each oil or gas well owner or operator shall meet annually with representatives of the Town of Bartonville to review and renew emergency response plans. These reviews shall be in accord with U.S. Department of Transportation and Railroad Commission requirements and the owner or operator will:

1. Furnish or update a copy of the emergency response plan described in Subsection B;

2. Review the responsibilities of each governmental organization in response to an emergency or incident;

3. Review the capabilities of the pipeline owner or operator to respond to an emergency or incident;

4. Identify the types of emergencies or incidents that will result in or require contacting the Town; and

5. Plan mutual activities that the Town and the oil or gas well owner or operator can engage in to minimize risks associated with oil or gas well operation.

D. Report of Emergency or Incident. Upon discovery of a gas well emergency or incident, the following communications are to be initiated by the affected operators:

1. A general description of the emergency or incident;

2. The location of the emergency or incident;

3. The name and telephone number of the person reporting the emergency or incident;

4. The name of the gas well owner or operator;

5. Whether or not any hazardous material is involved and identification of the hazardous material so involved;

6. Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident;

7. The oil or gas well owner or operator shall contact any other emergency response groups that are necessary that may not be activated through the Denton County 911 system; and

8. The oil or gas well owner or operator shall contact the Denton County emergency planning committee (DCEPC) no later than one (1) hour after the discovery of any incident.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.35. PERIODIC REPORTS.

A. Changes. The operator shall notify the Town Secretary of any changes to the following information within five working days after the change occurs:

1. The name, address, and phone number of the operator.

2. The name, physical and mailing addresses, and phone number of the person designated to receive notices from the Town.

3. The operator's emergency response plan (including "drive-to maps" from public rights-of-way to each drill site).

4. Any notifications made to state and/or federal agencies of accidental releases, upset conditions, leaks, or spills.

5. Any other information required on the application by this Chapter.

B. Phone Numbers. The operator shall notify the Town Secretary within one business day of any change to the name, address, and phone number answered twenty-four (24) hours a day of the person(s) with supervisory authority over drilling or operations activities.

C. Incident Reports. The operator shall provide the Town Secretary with a copy of any "incident report" or written complaint submitted to the Railroad Commission within seven (7) days after the activity that resulted in the noncompliance with the requirements of this Chapter.

D. Annual Reports. Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the well has been abandoned and the site restored, the operator shall submit a written report to the Town Secretary identifying any changes to the information that was included in the application for the applicable gas well permit that have not been previously reported to the Town.

E. Quarterly Inspections. During each inspection conducted by the gas inspector pursuant to Section 32.5, the gas inspector shall insure that the operator is conducting operations in compliance with the gas well permit and the provisions of this Chapter and to verify the accuracy of the information reported.

F. Fees. The cost of each inspection and subsequent reinspection shall be borne by the operator. The inspection and reinspection fees shall set forth in the Town's fee schedule.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.36. AMENDMENT OR TRANSFER OF PERMIT.

A. Procedures. An operator may submit an application for an amended gas well permit in accordance with the procedures set forth in Sections 32.7 through 32.10. An application for an amended gas well permit shall be reviewed and processed in the same manner as an application for a gas well permit.

B. Transfer. A well permit shall be transferred upon written notice by the operator to the Town upon compliance with the following conditions:

1. the transferee agrees to be bound by the terms and conditions of the current well permit and road repair agreement;

2. all information previously provided to the Town as part of the current well permit application is updated to reflect any changes;

3. the transferee provides the insurance and security required by this Chapter and otherwise complies with all applicable ordinances and regulations; and

4. the transferor is current in all of its financial obligations under this Chapter.

C. Insurance and Security. The insurance and security provided by the transferor shall be released provided, however, that the transfer shall not relieve the transferor from any liability to the Town arising out of any activities conducted prior to the transfer.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.37. PLUGGED AND ABANDONED WELLS.

A. Surface Requirements for Plugged and Abandoned Well. Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this chapter. The operator must restore the site to its original condition in accordance with the surface reclamation plan within thirty (30) days of the abandonment of the

final well on a pad site. The gas well inspector may grant an extension of no more than an additional sixty (60) days.

B. Surface Reclamation Plan. Each operator must submit, as part of the Gas Well Permit application, a surface reclamation plan that must include information outlined in this subsection, in the degree of detail necessary to demonstrate that full site reclamation can be accomplished. For drilling permits issued prior to November 1, 2011, a surface reclamation plan must be

submitted to the Town for administrative approval prior to any abandonment and must meet all of the requirements of the reclamation plan. The reclamation plan must include:

1. Measures to be taken to restore property to allow use under the Town's Comprehensive Plan;

2. The control of surface water drainage and of water accumulation and measures to be taken during the reclamation process to provide for the protection of quantity and quality of surface and groundwater systems;

3. Testing for and, if necessary, cleaning up polluted surface and groundwater, including, but not limited to testing soil and water samples from around the site for chemicals associated with the drilling and production process both before a permit is issued and within 30 days following the completion of abandonment activities;

4. Backfilling, soil stabilization, compacting, grading and appropriate revegetation;

5. Soil reconstructions, replacement and stabilization;

6. Configuration of the reshaped topography;

7. Waste disposal;

8. A plan for revegetation of affected lands;

9. Road reclamation;

10. Other practices necessary to ensure all disturbed areas will be reclaimed; and

11. A notarized statement from the surface property owner identifying any facilities that the property owner desires to remain after the abandonment of the well.

C. Approval. Abandonment shall be approved by the gas inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Town and/or Gas Inspector:

1. The derrick and all appurtenant equipment thereto shall be removed from drill site;

2. All tanks, towers, and other surface structures or installations shall be removed from the drill site;

3. All concrete foundations, gravel, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

4. All holes and depressions shall be filled with clean, compactable soil;

5. All waste, refuse or waste material shall be removed from the drill site;

6. A report from an independent lab indicating that tested water and soil samples measured from the down gradient side on the surrounding property are not contaminated with chemicals associated with the drilling and production process[;]

7. During abandonment, the Operator shall comply with all applicable sections of this chapter; and

8. A five (5) foot no-build easement around the center of the plugged and abandoned well bore shall be required and recorded in the deed records of Denton County and filed with the Town.

D. Abandoned Well Requirement. The Operator shall furnish the following to the Gas Inspector:

1. A copy of the W-3A "Notice of Intention to Plug & Abandon" and "W-3 Plugging Record" forms on the same date these forms are submitted to the Railroad Commission;

2. A 72-hour notice of intention to abandon under the provisions of this Section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated[;]

3. All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the well identity and location permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a height of four (4) feet visible above the ground level.

E. Abandonment Requirements Prior to New Construction. All abandoned, closed or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission and this chapter prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.38. PROHIBITED ACTIVITIES.

The following activities are prohibited within the corporate limits of the Town of Bartonville:

A. The practice of land farming as defined by the Texas Railroad Commission Rule No. 3.8. as amended.

B. The installation and/or the operation of saltwater disposal wells.

C. The installation of line compressors or compressor stations.

D. The practice of frac sand mining.

E. The installation of cooling facilities.

F. Air and pneumatic drilling activities.

G. No refining process, or any process for the extraction of products from gas, shall be carried on at a drill site or operation site, except that a dehydrator and separator may be maintained on a drill site or operation site for the separation of liquids from gas. Any such dehydrator or separator may serve more than one well.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.39. TAKINGS DETERMINATION.

A. Procedure. An applicant who believes a taking under the Texas or United States Constitution or other law results or will result from an action taken by the Town Council or any officer or employee of the Town pursuant to this Chapter shall file an application with the Town Council requesting a taking determination.

B. Application. The application shall state the reasons that the applicant believes would support a finding that the Town's actions would constitute a taking under the Texas or United States Constitution or other law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

C. Fee. The application shall be accompanied by a fee as established in the Town's fee schedule.

D. Action on Application. The Town Council shall review the application and may grant the relief requested, or direct the Town Administrator to rescind action taken by a Town employee that formed the basis of the application[.] If the Town Council denies the application, or if, after a favorable determination, the Town Council fails to take action as specified above, the applicant may appeal the decision or inaction of the Town Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.40. SUSPENSION OR REVOCATION OF GAS WELL PERMIT.

A. Violation of Ordinance. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a gas well permit or this Chapter (including any requirement incorporated by reference as part of the gas well permit), the Town Administrator shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community.

B. Cure Period. The cure period shall be seven days unless the failure presents a risk of imminent destruction of property or injury to persons, a lapse or imminent lapse of required insurance or other required security, or unless the failure involves the operator's failure to provide periodic reports as required by this Chapter. If the failure presents a risk of imminent destruction of property or injury to persons, a lapse or imminent lapse of required insurance or other required security, the Town Administrator may shorten the cure period, and may order the suspension of the gas well permit and the cessation of activities, or such other action as the Town Administrator deems advisable in order to preserve safety, property, and the Town's interests.

C. Suspension or Revocation. If the operator fails to correct the noncompliance within seven days from the date of the notice, or within such timeframe as specified in the notice, the Town Administrator may suspend or revoke the gas well permit pursuant to the provisions of this Chapter.

D. No Operations Upon Suspension. A person commits an offense if the person shall carry on any operations performed under the terms of the gas well permit issued under this Chapter during any period of any gas well permit suspension or revocation or pending a review of the decision or order of the Town in suspending or revoking the gas well permit.

E. Notice to Commission. During any enforcement proceedings, the operator may make necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the gas well permit was ordered, or as required by the Commission or Texas Commission on Environmental Quality. If the Operator does not cure the noncompliance within the time specified in this Chapter, the Town Administrator, upon written notice to the operator, may notify the Railroad Commission and request that the Railroad Commission take action to obtain compliance. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.41. APPEAL.

A. Appeal of Suspension or Revocation. The Town Council shall hear and determine appeals where it is alleged there is error or abuse of discretion regarding the revocation or suspension of any gas well permit issued by the Town Administrator.

B. Procedure. Any operator whose permit is suspended or revoked or whose well or equipment is deemed by the gas inspector to be abandoned may, within thirty (30) days of the date of the written decision of the gas inspector file an appeal to the Town Council in accordance with the following procedure:

1. An appeal shall be in writing and shall be filed in triplicate with the Town Secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.

2. Within forty-five (45) days of receipt of the records, the Town Secretary shall transmit all papers involved in the proceeding, place the matter on the Town Council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice needs to be given.

3. A fee shall be required for every appeal in the amount established by the Town. In addition, the appellant shall reimburse the Town for all legal and professional fees associated with the review of the appeal. The decision of the Town Council shall be final and binding on the appellant.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.42. ENFORCEMENT.

The Town Administrator, Town Secretary, Chief of Police, police officers, Fire Chief, code enforcement officials, and the gas inspector are authorized and directed to enforce the provisions of this Chapter and the provisions of any gas well permit.
(Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.43. RIGHT OF ENTRY.

Whenever necessary to enforce any provision of this Chapter or a gas well permit, or whenever there is reasonable cause to believe there has been a violation of this Chapter or a gas well permit, the Town Administrator, Town Secretary, Chief of Police, police officers, Fire Chief, code enforcement officials, or the gas inspector may enter upon any property covered by this Chapter or a gas well permit at any reasonable time to inspect or perform any duty requirement imposed by this Chapter. If entry is refused, the Town shall have recourse to every remedy provided by law and equity to gain entry. (Ordinance 526-11, sec. 3, adopted 10/18/11)

§ 32.44. PENALTY.

A. Offense. A person commits an offense if the person:

1. Engages in any activity not permitted by the terms of a gas well permit issued under this Chapter.

2. Fails to comply with any of the terms and conditions set forth in a gas well permit issued under this Chapter.

3. Fails to comply with any order or directive of either the Fire Chief, Fire Department, Police Department or gas inspector issued in accordance with this Chapter.

4. Refuses to permit access to a gas well development site or operation site to the Fire Chief, Fire Department, Police department or gas inspector, or other authorized individual, upon request or as required under this Chapter.

5. Violates any provision or requirement set forth under this Chapter other than a violation of Section 32.14.

6. Fails to comply with any element or provision of a noise abatement plan, lighting plan, route map, emergency management plan, dust mitigation plan or waste management plan.

7. Constructs, installs or maintains any equipment on a well development site or operation site in a manner that is not in compliance with the site plan approved by the Town Council.

B. Fine. Any violation of this Chapter shall be punished by a fine of not more than $2,000.00 per day, subject to applicable State law. Each day that a violation exists shall constitute a separate offense.

C. Injunctive Relief. The Town is authorized to enforce the provisions of this Chapter by bringing a civil action under Chapter 54 of the Texas Local Government Code.

D. Violations of Section 32.14 or Maintaining Nuisance.

1. The Town recognizes that its ordinances must be consistent with Chapter 382 of the Texas Health and Safety Code and the actions specified in this Section are adopted with the intent that they are consistent with Chapter 382 and the TCEQ Rules.

2. If the Town Administrator or the gas inspector determines that a violation of Section 32.14 has occurred, or that a nuisance as defined by Section 32.14(C) exists, the Town Administrator shall take one or more of the following actions:

a. notify the operator and request that the operator submit a plan to abate the nuisance and comply with Section 32.14 and approve or disapprove the plan;

b. monitor the operator's compliance with Section 32.14;

c. postpone action on any pending permit applications submitted by the operator of the site where the alleged violation occurred;

d. postpone action on any additional permit applications submitted by the operator of the site where the alleged violation occurred;

e. notify TCEQ and request assistance;

f. implement actions authorized by an authorized representative of TCEQ to abate the nuisance; and/or

g. notify those occupants of protected uses whose property line is located within one thousand (1,000) feet of the location of the alleged violation and nuisance. The cost of notification shall be borne by the operator.

h. The Town may file suit against an operator to abate a nuisance and in such event, the Town may join the TCEQ as a party.

(Ordinance 526-11, sec. 3, adopted 10/18/11)

DIVISION V
INTERPRETATION; PRESERVING RIGHTS; PENALTY FOR VIOLATIONS; CERTIFICATION

CHAPTER 33
EFFECT OF INTERPRETATION

§ 33.1. ~~[~~EFFECT OF INTERPRETATION.~~]~~

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of ~~the~~ public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however,~~.~~ that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this Ordinance shall govern. This Ordinance is also not intended to abrogate or annul any lawfully obtained permit issued prior to the effective date of this Ordinance.
(Ordinance 361-05 adopted 3/22/05)

CHAPTER 34
PENALTY FOR VIOLATIONS

§ 34.1. ~~[~~PENALTY.~~]~~

Any person or corporation violating any of the provisions of this Ordinance shall, upon conviction, be fined any sum not exceeding two thousand dollars ($2,000.00) and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the Ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.
(Ordinance 361-05 adopted 3/22/05)

§ 34.2. ~~[~~OTHER ACTIONS.~~]~~

Nothing contained herein shall prevent the Town of Bartonville from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ordinance 361-05 adopted 3/22/05)

(Reserved)

14A Attachment 1

APPENDIX A
ADMINISTRATION

A.1 ZONING PROCEDURES

A. Petition for Zoning Map Amendments

1. Purpose, Applicability and Effect

a. Purpose. The purpose of a petition for a zoning map amendment is to establish the initial zoning district classification of land, or to authorize a use of land, or in the case of overlay zoning districts, to authorize uses or a set of zoning standards for the land that are not presently authorized under the regulations for the zoning district in which the property is located.

b. Applicability. Where a property owner seeks to establish an initial zoning district classification for land, or to establish a use of land or through an overlay district to apply standards to a proposed use that are not currently authorized by the zoning district regulations currently in effect, the property owner must submit a petition for a zoning map amendment before seeking approval of any quasi-judicial or administrative development application for such land. The requirements of this Appendix A do not apply to land outside of the Town limits. The requirements of this Appendix do apply to land annexed to the Town upon the effective date of the annexation.

c. Effect. Enactment of an ordinance approving a petition for a zoning map amendment results in a change in zoning district classification for the property, and the use of the land thereafter is subject to all requirements of the new zoning district. Approval of a petition for a zoning map amendment authorizes the property owner to establish any use authorized in the new zoning district, subject to the standards applicable within the zoning district, upon obtaining approval of all development applications required by this Zoning Ordinance.

2. Sequence of Approvals

a. Prior Applications. A petition for a zoning map amendment shall not be approved unless the following petitions, where applicable, have been approved and remain in effect:

1. Any petition for amendment of the Town's Master Plan upon which the petition for zoning map amendment is dependent; and

2. Any petition for amendment of the regulations in this Zoning Ordinance required to authorize the use in the zoning district requested in the petition.

b. Subsequent Approvals. No application for a quasi-judicial or Board of Adjustments application shall be approved until a petition for a zoning map amendment has been approved authorizing the use or standards proposed in the development application.

3. Application Requirements

a. Responsible Official. The Town Secretary shall be the responsible official for a petition for a zoning map amendment.

b. Initiation of Zoning Map Amendment. Only the property owner or the owner's authorized agent (proof of such notarized authorization must be submitted with the zoning application), the Town Secretary, the Planning and Zoning Commission, or the Town Council on its own motion, may initiate a petition for a zoning map amendment.

1. In the event the ownership stated on a petition is different from that shown in Town records, the petitioner shall submit written proof of ownership or notarized verification that the petitioner is acting as an authorized agent for the property owner.

2. A landowner or agent seeking approval of a petition for a zoning map amendment shall pay or otherwise satisfy all delinquent taxes, paving assessments, impact fees, or any other delinquent debts or obligations for the property to be rezoned at the time the petition is submitted. It shall be the petitioner's responsibility to provide evidence or proof that all taxes and obligations have been paid.

c. Contents. The petition for a zoning map amendment shall be accompanied by an application on an official form with the required maps of the Town of Bartonville.

4. Processing of Application and Decision

a. Notice. The Town Secretary shall cause published notice, posted notice and personal notice of the public hearings before the Planning and Zoning Commission and the Town Council to be given in accordance with Appendix Section A.5 of this Zoning Ordinance.

b. Special Notice. Whenever the Town Council intends to convene a joint public hearing with the Planning and Zoning Commission, the Town Secretary shall cause notice of the joint public hearing to be given as prescribed by separate ordinance of the Town Council.

c. Action by Commission. The Planning and Zoning Commission, following the public hearing, shall formulate a report and recommendation on the petition for a zoning map amendment, and shall forward the report and recommendation to the Town Council.

d. Decision. The Town Council shall consider the report of the Planning and Zoning Commission and the petition at a public hearing. The Town Council may vote only on a specific proposed amendment that has been recommended for approval or denial by the Planning and Zoning Commission. If the Town Council wants to consider a zoning designation other than that recommended by the Planning and Zoning Commission, the Council shall return the petition to the Planning and Zoning Commission with direction to make a recommendation on the alternate designation

suggested by the Town Council. A decision of the Council reclassifying land to a different zoning district shall be in the form of an ordinance that amends the Town's official Zoning Map.

e. Super-Majority Vote. In each of the following circumstances, a zoning amendment shall not become effective except by ~~the favorable~~an affirmative vote of three-fourths of all members of the Town Council:

When a written protest of a proposed change to a zoning regulation or district boundary is submitted, written and signed by the owners of: (a) at least 20 percent of the area of the lots or land covered by the proposed change; or (b) except as provided by Section f. below, at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area; or

1. ~~protest against the amendment is signed by the owners of twenty percent (20%) or more of either the area of the lots or land included in the proposed change, or of the lots or land immediately adjoining the same and extending two hundred (200) feet therefrom. In computing the percentage of land area, the area of streets and alleys shall be included in the computation. For purposes of applying this subsection, the written protest of any one owner of land owned by two or more persons shall be presumed to be the protest of all such owne~~

2. When the Planning and Zoning Commission recommends denial of the zoning amendment.

f. A zoning amendment shall not become effective except by an affirmative vote of a majority of all members of the Town Council when a proposed change to a zoning regulation or district boundary is submitted, written and signed by the owners of at least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change: (i) has the effect of allowing more residential development than the existing zoning regulation or district boundary; and (ii) does not have the effect of allowing additional commercial or industrial uses, unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development.

~~f.~~g. Deferral of Decision. The Planning and Zoning Commission or the Council may, on its own motion, or at the applicant's request, defer its recommendation or decision and continue the request to a date certain for not more than ninety (90) calendar days from the date of the initial public hearing, to consider other information or proposed modifications to the request which may have a direct bearing on the recommendation or decision. If the Planning and Zoning Commission or Council elects to table the request, the tabling shall specifically state the meeting date at which the request will reappear on the Planning and zoning Commission's agenda, and further notice in the newspaper and to surrounding property owners shall not be required.

5. Criteria for Approval

a. In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the Town Council may consider the following factors:

1. Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use Map and any other incorporated plan maps;

2. Whether the proposed zoning map amendment is consistent with an annexation or development agreement in effect;

3. Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;

4. 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

5. Any other factors which will substantially affect the public health, safety, morals, or general welfare.

B. Text Amendments

1. Legislative Changes to Zoning Ordinance

a. Amendments. The Town Council may from time to time amend, supplement, or change the text of this Zoning Ordinance by a majority vote of its members, unless a different vote is otherwise required by this Zoning Ordinance or other law.

b. Hearing and Notice. The Town Council shall conduct a public hearing on a proposed text amendment in accordance with Section A.6 of this Appendix and cause notice of the amendment to be published in accordance with Section A.5 of this Appendix for amendments to any provisions of this Zoning Ordinance.

The hearing and notice requirements of this Subsection do not apply to an action of the Town Council imposing a moratorium on the acceptance, processing or issuance of development permits or petitions for legislative decisions.

c. Recommendation of advisory body. Where required by this Zoning Ordinance or other law, the Town Council shall first consider the recommendation of the Planning and Zoning Commission, together with the recommendations of any other advisory body prescribed by this Ordinance, concerning the proposed text amendment. Where action is required of the Planning and Zoning Commission or other advisory body on a proposed text amendment, the advisory body also shall conduct a public hearing and publish notice of its consideration of the amendment in the manner required by Sections A.5 and A.6, respectively.

d. Initiation of Amendments. Unless otherwise limited by this Zoning Ordinance, a petition for amending the text of the Zoning Ordinance may be initiated by the Town Council, the Planning and Zoning Commission, a board, commission or advisory body, an ad hoc advisory body appointed by the Council, a responsible official designated in this Code, or any citizen or owner of land within the Town limits.

1. Except for amendments initiated by the Town Council, the petition to amend the text of this Zoning Ordinance shall state with particularity the nature of the amendment and the reason for the amendment.

2. A petition for a text amendment may be submitted in conjunction with a development application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the Town on the development application.

3. The Town Council may establish rules governing times for submission and consideration of text amendments.

(Ordinance 361-05 adopted 3/22/05)

A.2 RELIEF PROCEDURES

A. Appeals of incomplete development applications

1. Purpose, Applicability and Effect

a. Purpose. The purpose of an appeal is to contest an initial decision on a development application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise modifying the standards of this Zoning Ordinance that apply to the development application.

b. Applicability. Any final administrative decision on an incomplete development application authorized by this Zoning Ordinance, including a determination by the responsible official that a proposed development is exempt from one or more development applications, may be appealed to the Town Council. A final quasi-judicial decision on a variance application may be appealed to the Town Council only if expressly provided for in the regulations establishing the procedure by which the decision was made. No appeal shall be taken from a legislative decision authorized under this Zoning Ordinance.

c. Effect. The granting of an appeal supersedes the decision from which appeal was taken, and results in approval, conditional approval or denial of the development application for which approval was sought.

2. Appeal Requirements

a. Who May Appeal. Any interested person aggrieved by a final decision on a development application may appeal from that determination to the Town Council. A person is interested within the meaning of this section if the final decision results in impacts on that person that exceed the impacts on or otherwise affect the person to a greater degree than a member of the general public. An interested person includes any officer or agency of the Town.

b. Form of Appeal. The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the Town Council. An appeal by an applicant shall be accompanied by a copy of the development application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.

c. Time for Filing Appeal. A written appeal must be filed with the Town Secretary within ten (10) working days from the date of notification of the final decision on the development application.

3. Processing of Appeal and Decision

a. Responsible Official. The Town Secretary is the responsible official designated by this Zoning Ordinance for processing of the development application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate body.

b. Stay of Proceedings. Receipt of a written appeal of a decision on a development application stays all proceedings of the Town in furtherance of the decision from which appeal is taken, including without limitation acceptance, processing or issuance of any subordinate development applications, and any development activities authorized by initial approval of the development application.

1. The stay shall be lifted only if the responsible official certifies in writing to the appellate body that a stay would cause imminent peril to life or property.

2. Thereafter, the stay may be reinstated only by order of the appellate body or a court of record, on application, after notice to the responsible official, for due cause shown.

c. Hearing and Notice. Notification of the appeal and conduct of the public hearing thereon shall be published in the Town Agenda in the same manner as other agenda items. The initial appeal shall be held within thirty (30) working days after the filing of the appeal with the responsible official, unless a different time is prescribed by the provisions of this Appendix.

d. Decision on Appeal. The Town Secretary shall decide the appeal within 30 working days of the close of the hearing.

e. Notification of Decision on Appeal. The appellant and the applicant for the development permit shall be notified of the decision on appeal.

4. Criteria

a. In deciding the appeal, the appellate body shall apply the same criteria as govern the initial decision on the development application pursuant to the provisions of this Ordinance.

5. Expiration and Extension

a. For purposes of determining expiration or extension periods under this Zoning Ordinance, the date of the appellate body's granting of relief on an appeal is the date on which the development application is deemed approved.

(Ordinance 361-05 adopted 3/22/05)

A.3 VARIANCE PETITIONS

A. Purpose, Applicability and Effect

1. Purpose. The purpose of a variance petition is to vary one (1) or more standards applicable to a development application, subject to the limitations set forth in this section or elsewhere in this Zoning Ordinance. A variance petition shall not be used as a means of amending the text of this Zoning Ordinance or of changing a zoning district or other legislative classification of the property for which the variance is sought. A variance petition cannot be used as a means to contest the applicability of a standard to a development application, an exemption determination, or a decision on a development application.

2. Applicability. A variance petition may be filed to modify any standard applicable to an administrative or quasi-judicial development application, unless otherwise prohibited by this Zoning Ordinance. The variance petition shall be decided by the Board of Adjustments. A variance petition may not be used to vary standards applicable to a petition for a legislative decision.

3. Effect. The granting of a variance petition in whole or in part authorizes the petitioner to submit a development application that complies with the standard as varied or modified, and the decision-maker to evaluate the application using the varied standard, for the duration of the variance.

B. Petition Requirements

1. Who May Petition. A variance petition may be filed by a property owner or the applicant for any administrative or quasi-judicial development application.

2. Form of Petition. A variance petition shall be prepared and submitted on an official form of the Town of Bartonville. The variance petition shall contain a detailed written statement of the reasons why the standards to be varied should not be applied to the development application identified in the petition, and shall be accompanied by the fee established by the Town Council.

a. A variance petition shall be accompanied by a development application prepared consistent with the requested variance, if the decision-maker for the variance petition and the decision-maker for the development application are the same.

~~b.~~ If the body deciding the variance petition is different from the official or body deciding the development application, the petition shall be accompanied by illustrations or other documents showing the effect of the requested variance on development to be proposed in the application.

~~c. Time for Filing Petition.~~

C. Processing of Petitions and Decision

1. Responsible Official. The responsible official for a variance petition is the Town Secretary. Upon receipt of a variance petition, the Town Secretary shall transmit the petition to the Board of Adjustments for processing and determination in accordance with this section.

2. Hearing and Notice.

~~a. Where the decision makers for the variance petition and the development application are the same, notification of the requested variances shall be provided in conjunction with any required notification for the development application. A public hearing on the variances requested shall be required only if a public hearing is required on the development application and shall be conducted in conjunction with such hearing.~~

~~b.~~a. The public hearing for a variance shall be conducted in accordance with Sections A.5 and A.6 of this Ordinance, and shall be held within thirty (30) working days after the variance petition is filed with the Town Secretary, unless otherwise agreed to between the Applicant and the Town.

~~c.~~b. Burden of Proof. The petitioner bears the burden of proof to demonstrate that a variance to the standards applicable to a development application should be granted.

~~d.~~c. Decision on Petition. The Board of Adjustments shall grant, grant subject to conditions or deny the request for one or more variances.

~~e.~~d. Notification of Decision on Petition. The petitioner shall be notified of the decision on the variance petition in the manner provided in Sections A.5 and A.6 of this Zoning Ordinance.

D. Criteria for Approval

1. In deciding the variance petition, the Board of Adjustments shall apply the following criteria:

a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

b. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;

c. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

d. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

e. Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Ordinance, or adversely affect the rights of owners or residents of surrounding property;

f. Granting the variance petition is consistent with any special criteria applicable to varying particular standards;

g. The hardship or inequity suffered by petitioner is not self-induced;

h. The request for a variance is not based exclusively upon a desire from the petitioner for increased financial gain from the property, or to reduce an existing financial hardship; and

i. The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.

E. Expiration and Extension

1. Expiration on Failure to File Application. A variance to a standard applicable to the development application shall expire within ninety (90) days of the date the variance petition is granted, unless the property owner or applicant files the development application with the Town in accordance with this Zoning Ordinance within such period. The Board of Adjustments may extend the time for filing the development application for good cause shown, but in any event, the expiration date for the variance shall not be extended beyond one (1) year from the date the variance petition was granted.

2. Effect of Permit Expiration or Extension. Variances granted in conjunction with a development application remain in effect for the period the development permit is in effect, and expire upon expiration of the development permit. Extension of the development permit also shall result in extension of the variance.

3. Effect of Application Denial. Denial of the development application in conjunction with which a variance petition was granted or processed shall result in expiration of the variance.

(Ordinance 361-05 adopted 3/22/05)

A.4 VESTED RIGHTS PETITION

A. Purpose, Applicability and Effect

1. Purpose. The purpose of a vested rights petition is to determine whether one or more standards of this Zoning Ordinance should not be applied to a development application by operation of state statutory law.

2. Applicability. A vested rights petition shall be filed with the Town Council. A vested rights petition may not be filed with a petition for a legislative decision.

3. Effect. Upon granting of a vested rights petition in whole or in part, the Town Secretary shall process the development application and the decision-maker shall decide the

application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards.

B. Petition Requirements

1. Who May Petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, for a quasi-judicial or administrative development application in conjunction with the filing of the application.

2. Form of Petition. The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the development application pursuant to Tex. Loc. Gov't Code Ch. 245 or successor statute that requires the Town to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

   a. A narrative description of the grounds for the petition;

   b. A copy of each approved or pending development application that is the basis for the contention that the Town may not apply current standards to the development application which is the subject of the petition;

   c. Identification of all standards otherwise applicable to the development application from which relief is sought;

   d. Identification of any current standards which petitioner agrees can be applied to the development application at issue;

   e. A narrative description of how the application of current standards affect proposed lot size, lot dimensions, lot coverage or building size shown on the development application for which the petition is filed; and

   f. A copy of any prior vested rights determination involving the same land.

3. Time for Filing Petition. A vested rights petition shall be filed with a development application for which a vested right is claimed unless waived by the Town Council. Where more than one application is authorized to be filed by this Zoning Ordinance, the petition may be filed simultaneously for each application.

C. Processing of Petitions and Decision

1. Responsible Official. The Town Secretary is the responsible official for processing the development application with which the petition is associated. The responsible official shall promptly forward a copy of the vested rights petition to the Town Attorney following acceptance.

2. Initial Decision. The Town Attorney shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the Town Attorney's reasoning and setting forth the decision on the petition, which shall be delivered to the Town Council and applicant within ten (10) days of the date the vested rights petition is accepted for filing.

3. Decision by Town Council. Where the Town Council is the final decision-maker on the development application, the petitioner may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this Zoning Ordinance pending decision by the Council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the responsible official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within thirty (30) days of the petitioner's request. If no written request for Council referral is filed, the Council shall decide the vested rights petition with its decision on the development application.

4. Action on the Petition. The Town Council on the vested rights petition may take any of the following actions:

   a. Deny the relief requested in the petition, and direct that the development application shall be reviewed and decided under currently applicable standards;

   b. Grant the relief requested in the petition, and direct that the development application shall be reviewed and decided in accordance with the standards contained in identified prior regulations;

   c. Grant the relief requested in part, and direct that certain identified current standards shall be applied to the development application, while standards contained in identified prior regulations also shall be applied.

5. Order on Petition. The Town Attorney's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:

   a. The nature of the relief granted, if any;

   b. The approved or filed development application(s) upon which relief is premised under the petition;

   c. Current standards which shall apply to the development application for which relief is sought;

   d. Prior standards which shall apply to the development application for which relief is sought, including any procedural standards;

   e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and

   f. To the extent feasible, subordinate development applications that are subject to the same relief granted on the petition.

6. Application Following Final Decision on Petition. Following the Town's final decision on the vested rights petition, the property owner shall conform to the development application for which relief is sought to such decision. The decision-maker on the development application shall consider any application revised under this subsection in accordance with the procedures for deciding the initial application under this Zoning Ordinance and in

conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the development application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the Town Council pursuant to this Section, proceedings on the application shall resume after the Council's decision on the vested rights petition.

D. Criteria for Approval

1. Factors. The Town Council, shall decide the vested rights petition based upon the following factors:

a. The nature and extent of prior development applications filed or approved for the land subject to the petition;

b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;

c. Whether any prior approved applications for the property have expired or have been terminated in accordance with law;

d. Whether specific standards otherwise applicable affect lot size, lot dimensions, lot coverage or building size based upon the proposed development application; and

e. Whether any statutory exception applies to the standards in the current Ordinance from which the applicant seeks relief.

f. Whether any prior approved applications relied upon by the petitioner has expired pursuant to Subsection F.

E. Conditions. If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Ordinance, the Town Council may condition any relief granted on the petition on the approval of the application under such prior standards.

F. Expiration and Extension

1. Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

a. The petitioner or property owner fails to submit a required revised development application consistent with the relief granted within 30 days of the final decision on the petition;

b. The development application for which relief was granted on the vested rights petition is denied pursuant to the criteria made applicable through the relief granted on the petition;

c. The development application for which relief was granted on the vested rights petition expires.

2. Extension. Extension of the date of expiration for the development application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

G. Dormant Projects

1. For purposes of this section only:

   a. Initial permit means any of the following types of approvals granted pursuant to the predecessor zoning ordinance, whether or not such approvals were issued in conjunction with or as a condition of approval of any other permits: site plan, landscape plan, development plan, concept plan, zoning site plan, conditional use permit, or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of land uses, lots or improvements on a site intended for development.

   b. Final permit means a building permit, certificate of occupancy, or final plat approved pursuant to the Town of Bartonville Zoning Ordinance or Development Ordinance, as amended, or any predecessor zoning, subdivision or development ordinance.

2. Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date on, March 22, 2005, pursuant to any predecessor zoning, subdivision or development ordinance, shall expire on the effective date of this Zoning Ordinance.

3. The owner of the land subject to an initial permit that expires under subsection 2. may petition the Town Council to reinstate such zoning permit by filing a written petition within sixty (60) calendar days of the effective date of this Zoning Ordinance. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

   a. As of March 22, 2005, one of the following events had occurred:

      1. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;

      2. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;

      3. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;

      4. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or

      5. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid.

b. After March 22, 2005 but before the expiration date specified in subsection 2., one of the following events had occurred:

1. A final building permit was approved for all or part of the land subject to the approved zoning, and remained in effect for such land on such expiration date; or

2. A complete application for approval of a final building permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

c. The Town Council may take one of the following actions:

1. Reinstate the expired initial permit without an expiration date, if it finds that the petitioner has met any one of the criteria listed in subsection 3.a.

2. Reinstate the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in subsection 3.b., subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit.

3. Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in Subsection 3.

4. Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in subsection 3.b.2. and the pending application subsequently was approved, and deny the petition for the remaining land subject to the expired initial permit.

(Ordinance 361-05 adopted 3/22/05)

A.5 GENERAL NOTICE REQUIREMENTS

A. Published Notice. Whenever published notice of a public hearing before a board or commission or the Town Council regarding a legislative or quasi-judicial decision is required under state law or this Zoning Ordinance, the Town Secretary shall cause notice to be published in a newspaper of general circulation in the Town before the fifteenth (15th) day before the date set for the required hearing. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

B. Personal Notice. Whenever personal notice of a public hearing is required by state law or this Zoning Ordinance before a board or commission or the Town Council, the responsible official shall cause notice to be sent by regular mail before the tenth (10th) day before the hearing date to 1) each owner of real property located within two hundred (200) feet of the exterior boundary of the property in question, 2) to any registered neighborhood organization representing the area in which the subject property is located, 3) the applicant and/or property owner, and 4) if the matter to be considered is an

appeal, to the appellant. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.

1. Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the Town limits, and, when required by state law, on the most recently approved county tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or county tax roll, notice may be given by publication.

2. Notice may be served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

~~C. Posted Notice.~~

~~1. Whenever this Zoning Ordinance requires that notice of a public hearing be posted on land the owner/developer/applicant shall erect a notification sign, provided by the Town, stating the purpose of the public hearing, on the subject property before the tenth (10th) day prior to the first public hearing.~~

~~a. A minimum of one sign shall be placed adjacent on each street frontage. Property with multiple street frontages shall have the requisite sign on each street. Signs shall be placed in a visible, unobstructed location near the front property line.~~

~~b. The notification signs shall be left in place until final action is taken. The owner/developer/applicant shall remove and return such sign(s) to the Town within five calendar days after action by the Town Council or immediately upon the withdrawal of the petition, whichever comes first.~~

~~2. It shall be the responsibility of the applicant to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The applicant shall immediately notify the Town Secretary of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.~~

~~D.~~C. Notification Following Decision. Within ten (10) working days of the date of a responsible official, board, commission or Town Council determination on a development application or permit, written notification of the action shall be mailed to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of the conditions, if any. If the final decision-maker denies the application, a written statement setting forth the basis for the decision to deny the application also shall be included. Record of this notification shall be filed with the Town Secretary on the date of notification.

~~E.~~D. Notification of Appeal or Revocation. Whenever appeal is taken from a final decision on a development application following a public hearing, or whenever the Town is to consider revocation of a development permit which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by subsection B. If no public hearing was held prior to approval of the development application, personal notice of revocation shall be given only to the holder of the permit.

~~F.~~E. Special Notice. Whenever this Code requires or the Town Council prescribes that notice of a public hearing be given that differs from the requirements of this section, the responsible official shall cause such notice to be given in the manner otherwise required or prescribed.

F. Additional Procedures Relating to Nonconforming Uses: In addition to the foregoing notice, the Town shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice shall:

1. be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
2. contain the time and place of the hearing; and
3. include the following text in bold 14-point type or larger: "THE TOWN OF BARTONVILLE IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY"; and
4. ~~1.~~ in the sole discretion of the Town, include any other information deemed relevant or necessary for the property owner to understand the impact of the proposed change that is subject to the public hearing.

(Ordinance 361-05 adopted 3/22/05; Ordinance 722-22 adopted 4/19/22)

A.6 PUBLIC HEARINGS

A. Setting of the Hearing. When the Town Secretary determines that a development application is complete and that a public hearing is required by this Ordinance, the official shall select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made pursuant to Section A.5. The time set for the hearing shall conform to the time periods required by this Code.

B. Conduct of Hearing. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.

1. The responsible official shall first present a description of the proposed development and a written or oral recommendation, if required. The official's written recommendation, if any, shall be available to the applicant at the time that the agenda packet for the body conducting the hearing is compiled.

2. The applicant shall present any information it deems appropriate.

3. Public testimony shall be heard first in favor of the proposal, then in opposition to it.

4. At the discretion of the chairperson, the Town Secretary and the applicant may respond to any statement by any witness.

5. The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. At the sole discretion of the chairperson of the body conducting the hearing, a witness may be permitted to pose relevant questions to staff, the applicant or another witness, as directed by the chairperson.

C. Record of Proceedings. The body conducting the hearing shall record the proceedings by any appropriate means.

D. Continuance of Proceedings. The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken.

E. Additional Rules. The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation, and may apply such additional rules to govern the public hearing which are not inconsistent with this section.

F. Joint Public Hearing. Unless otherwise prescribed in this Zoning Ordinance, whenever a petition for a legislative decision or a development application must be preceded by a public hearing both before an advisory body and before the Town Council, the advisory body and the Council may conduct a joint public hearing and take action on the petition or application in the following manner:

1. The Council shall establish the date of the joint public hearing by motion at a regular or special meeting;

2. The Council shall cause notice of the joint public hearing to be provided as required by this Zoning Ordinance, or, by a vote of two-thirds of its members, may prescribe a different type of notice for the joint public hearing;

3. The advisory body and the Council shall be convened for the hearing and for any action to be taken on the petition or application;

4. The advisory body and the Council may take action on the petition or application at the same meeting, provided that the Council shall not take action until the report and recommendation of the advisory body has been received.

(Ordinance 361-05 adopted 3/22/05)

A.7 POST-DECISION PROCEDURES

A. Post-Decision Procedures

1. Reapplication Following Denial. Whenever any development application, with the exception of any plat application, is denied for failure to meet the substantive requirements of this Zoning Ordinance, a development application for all or a part of the same property shall not be accepted for filing for a period of six (6) months from the date of denial unless the subsequent application involves a proposal that is materially different from the previously denied proposal. The decision-maker on the first application shall resolve any questions concerning the similarity of the second application. Noncompliance with this

subsection shall be grounds for denial of the application. The decision-maker may, at its option, waive the six (6) month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

2. Amendments and Revisions to Approval. Unless another method is expressly provided by this Zoning Ordinance, any request to amend or revise an approved development application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the Town.

3. Amendments Required. Whenever a subordinate development application differs materially from a priority application to which the subordinate application must conform, the applicant shall submit an amended application for the priority application, which shall be decided prior to the subordinate application. The applicant's failure to comply with the section shall result in denial of the subordinate application.

(Ordinance 361-05 adopted 3/22/05)

~~**Editor's note**- Ord. 361-05 contained two sections numbered as A.6. Designation of this section as section A.6.1 was at the discretion of the editor.~~

A.8 EXPIRATION, EXTENSION AND REINSTATEMENT

A. Expiration, Extension & Reinstatement of Approvals

1. Time of Expiration. Unless otherwise expressly provided by this Zoning Ordinance, a quasi-judicial or administrative development permit shall automatically expire and become null and void, and all activities pursuant to the permit thereafter shall be deemed in violation of this Ordinance, if:

   a. the applicant fails to satisfy any condition that was imposed as part of the approval of the development application or that was made pursuant to the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or

   b. the applicant fails to submit a subsequent development application required by this Zoning Ordinance within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the development application, the time shall be presumed to be one year from the date the decision was made.

2. Effect of Expiration. Upon the expiration of a quasi-judicial or administrative permit, all previously approved quasi-judicial or administrative permits for the same land also shall expire on the expiration date if:

   a. the expired permit is subordinate to such previously approved permits; and

   b. the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits. Thereafter, a new

application for each permit deemed expired under this section must be approved subject to regulations in effect at the time the new application is accepted for filing.

3. Extension Procedures - Initial Request. Unless a different time is expressly provided for a specific procedure by this Zoning Ordinance, the responsible official or the board, commission or the Town Council that finally approves a quasi-judicial or administrative development application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of initial approval of the application, provided that a request for extension is made in writing at least thirty (30) days before the approved application expires. Unless expressly stated otherwise, the extension period provided under a specific procedure shall be for the initial extension request. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The decision-maker may grant a request for extension of the expiration date for a period of up to one (1) year upon demonstration that circumstances beyond the control of the permit holder have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

4. Extension Procedures - Subsequent Extension. A permit holder may apply for an extension of the expiration date for a permit for a period not to exceed two (2) years, or for a second extension of the expiration date of the permit for a period not to exceed one (1) additional year. The application must be in writing. Such an extension may be granted only by a designated board or commission, for administrative applications, and only by the Town Council, for quasi-judicial applications, following a public hearing. In determining whether to grant a request, the board, commission or Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

5. Conditions. In granting an extension, the official or body deciding the request may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the decision-maker may require that one or more newly adopted development standards be applied to the proposed development.

6. Reinstatement. Unless otherwise provided by this Zoning Ordinance, an applicant may request reinstatement of an expired quasi-judicial or administrative development application by filing a written request with the responsible official within thirty (30) days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date of initial approval of the application.

7. Effect of Decision on Extension or Reinstatement. The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired pursuant to subsection 2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired pursuant to subsection 2. Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

(Ordinance 361-05 adopted 3/22/05)

A.9 FEES

A. Payment of Fee. Every application for a development permit under this title shall be accompanied by a nonrefundable fee set by ordinance of the Town Council. Any fee required by this title shall be collected and deposited with the Town Secretary, and such fees shall be payable to the Town of Bartonville.

B. Exception to Payment of Fee. No fee for processing or reviewing an application required by this ordinance shall be required by the Town, if the application is submitted by a governmental agency, public school or church.

C. Fee Schedule. Payment of fees required by this section shall be in accordance with the fee schedule adopted by ordinance of the Town Council, as may be amended from time to time.

(Ordinance 361-05 adopted 3/22/05)

A.10 ENFORCEMENT AND REVOCATION OF PERMITS

A. Enforcement Activities. Enforcement activities include informal contacts with individuals to advise them of requirements, the issuance of verbal warnings, written warnings, and municipal court citations, formal court action, and billing and collection. Employees of the Town of Bartonville are authorized to issue municipal court citations for violations of this Ordinance.

B. Right to Enter. The appropriate Town official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Zoning Ordinance. Submittal of any application for a permit required by this Ordinance that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

C. General Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used or developed in violation of this Ordinance or any permit approved thereunder, in addition to other remedies, the Town may institute any appropriate action or proceedings to prevent or abate such activity. Appropriate action or proceedings include revocation of permits or licenses, and institution of legal action in a court of competent jurisdiction.

D. Stop Work Orders.

1. Whenever any construction or development activity is being conducted in a manner that is contrary to any term, condition or requirement(s) of an approved permit or this Zoning Ordinance, the responsible official or the official's authorized representative may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the

responsible official to proceed with the work. This prohibition shall extend throughout any appeal period.

2. The owner or authorized agent may appeal the stop work order to the responsible official by giving written notice. The Town Secretary shall hear the appeal within five (5) working days of receiving the notice. The appellant may appeal a negative ruling by the Town Secretary in writing to the Town Council, which shall hear the appeal at the next regular meeting that occurs at least ten (10) days after receipt of the notice of appeal.

3. The decision-maker on the appeal may require the placement of temporary erosion control, water quality protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.

4. The Town Secretary or the Town Council, as the case may be, shall decide the appeal and make such order as is necessary to assure compliance with the terms of this Zoning Ordinance and all approved development applications or permits.

E. Municipal Court Actions. The Town Attorney is authorized to prosecute violations of this Zoning Ordinance in the municipal court where jurisdiction lies for the action.

F. Civil Court Actions. The Town Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Zoning Ordinance. The initiation of one form of enforcement action by the Town Attorney will not preclude the Town Attorney from initiating any other form of enforcement action.

G. Fines and Penalties. A person who violates any provision of this Zoning Ordinance shall be punished, upon conviction, by a fine not to exceed $2,000.00. The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed or shall exist, any architect, builder, contractor, agent, persons 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 herein provided. This section does not apply to enforcement of an ordinance in the Town's extraterritorial jurisdiction.

H. Separate Offenses. Each day that a violation continues shall be deemed a separate offense under this section.

I. Revocation Proceedings.

1. If a Town Secretary determines, based on inspection or investigation by the Town, that there are reasonable grounds for revocation of an approved development application, the official shall set a hearing before the original decision-maker, or if the decision was made by the official or another responsible official, before the board or commission to which appeal may be taken from such decision under this Zoning Ordinance. If the Town Council was the original decision-maker, the Council may refer the proposed revocation to the Planning and Zoning Commission for its report and recommendation prior to such hearing. Circumstances that warrant revocation of an approved development application shall include but not be limited to the following:

   a. A material mistake was made in approving the development application or permit;

b. Approval of the development application or permit was procured on the basis of material misrepresentations or fraud on the part of the applicant;

c. Development activities being undertaken on the land subject to the development application or permit are not in conformity with terms of the approved development application or permit;

d. The use authorized by the permit is in violation of a condition of approval of the approved development application or permit;

2. The applicant and any interested parties shall be given notice of the hearing in the manner provided in Section A.5. The public hearing shall be conducted in accordance with the procedures described in Section A.6.

3. In rendering its decision whether to revoke the approved application or permit, the decision-maker shall determine whether the activity authorized under the original approved application or permit complies with the terms, conditions and requirements of such approval. The decision-maker may revoke the application or permit, affirm it, or affirm it with attached conditions that assure that the terms, conditions and requirements of the application or permit shall be met.

4. A decision to revoke an approved development application or permit shall become final ten (10) days after the date notice of the decision was given, unless appealed. After the effective date, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application or permit without applying for and obtaining approval of a new development application or permit for the activity. Appeal from the decision to revoke the approved development application or permit shall be to the Town Council, unless the decision to revoke was made by the Council.

(Ordinance 361-05 adopted 3/22/05)

A.11 PERMITS AND CERTIFICATES

A. Construction Permits

1. General Provisions

a. Scope of Term. For purposes of this Appendix A, the term "construction permit" refers to any authorization to construct, alter or place a structure on a lot, tract or parcel. The term excludes an authorization to construct a capital improvement to be dedicated to the public in support of a proposed land use, the grading of land, the removal of vegetation, and other activities authorized to prepare a development site for construction of a structure. The term also excludes an authorization to demolish, repair or remodel an existing structure.

b. Effect. Approval of a construction permit authorizes the property owner to place or construct the structure on the lot, tract or parcel in accordance with the terms of the permit. Approval of a construction permit confirms that the application conforms to all requirements of this Zoning Ordinance pertaining to the construction of the proposed structure.

2. Sequence of Approvals

a. Prior Approvals. An application for a construction permit shall not be approved until the following petitions or development applications, where applicable, have been approved and remain in effect for land for which the application is made:

1. All legislative applications needed to authorize the proposed uses for the land;

2. All quasi-judicial applications;

3. A Final Subdivision Plat application;

4. A Site Plan; and

5. Any variance petition required for placement or construction of the structure on the lot, tract or parcel.

3. Accompanying Applications. An application for a construction permit may be accompanied by an application for a Site Plan, provided that the Site Plan is decided first.

4. Rules of Priority Among Construction Permits. The following rules of priority apply among construction permits.

a. A Floodplain Permit shall be approved prior to a building permit.

b. A building permit shall be approved prior to a certificate of occupancy.

c. Where a building permit is required, an application for a sign permit may accompany the application for a building permit, provided that the building permit application is decided first.

B. Building Permits

1. Applicability and Effect

a. Applicability. An application for a building permit is required within the Town limits, or where authorized by a development agreement, in the Town's extraterritorial jurisdiction, prior to placement, construction or alteration of a building or structure.

b. Effect. Approval of an application for a building permit authorizes the property owner to construct, alter or place a structure on the lot, tract or parcel. Approval of an application for a building permit also authorizes the property owner, upon completion of a structure intended for human occupancy, to make application for a certificate of occupancy.

2. Application Requirements

a. Responsible Official. The building official shall be the responsible official for a building permit.

b. Contents. An application for approval of a building permit shall be prepared in accordance with all applicable rules and regulations of the Town of Bartonville.

3. Decision

a. Decision. The building official shall approve, conditionally approve or deny the application for a building permit.

b. Time for Decision. The building official shall decide the application for a building permit within 30 days of the official filing date.

4. Appeals

a. Any interested person may appeal the building official's decision on the building permit application to the ~~Zoning~~ Board of Adjustment~~s~~ (~~Z~~BOA). The ~~Z~~BOA shall decide the appeal in accordance with ~~Article 3.1 [~~Article 3.02~~]~~ of the Town of Bartonville's Code of Ordinances.

5. Criteria for Approval

a. The building official shall apply the following criteria in deciding the application for a building permit:

1. The application generally conforms to all prior approved development applications for the property and any variance petition authorizing variation from the standards otherwise applicable to the permit.

2. The location of the structure on the property is in accordance with all prior approved development applications.

3. The proposed plan for construction or alteration conforms to the Building Code and other applicable construction codes adopted by the Town.

4. All applicable fees, including impact fees, have been paid.

6. Expiration and Extension

a. Expiration. A building permit expires if construction, alteration or placement of the structure authorized by the permit has not commenced on the property within ninety (90) days after final approval of the permit. The building permit shall expire within one (1) year of the date of approval if a certificate of occupancy for the structure has not been approved, or if the structure is not intended for human occupation, the construction, alteration or placement of the structure on the property has not been completed, within such period.

b. Extension and Reinstatement. The building official may extend the time for commencing construction, alteration or placement of a structure for a period not to exceed ninety (90) days, and the time for obtaining approval of a certificate of occupancy or completing construction, alteration or placement of the structure for a

period of one (1) year, in accordance with Subsection C. of this Section A.11~~0~~. The building official also may reinstate the permit for a one-year period pursuant Subsection C. of this Section A.11~~0~~.

C. Certificates of Occupancy

1. Applicability and Effect

a. Applicability. An application for a certificate of occupancy is required within the Town limits, or where authorized by a development agreement, in the Town's extraterritorial jurisdiction, after the construction, alteration or placement of a nonresidential structure on a lot, tract or parcel and prior to the any nonresidential use of the structure, or any occupation of a manufactured home. A certificate of occupancy is also required prior to a change in the nonresidential use of any structure if the use is a different use based upon the land uses listed in Appendix C.

b. Effect. Approval of a certificate of occupancy authorizes the occupancy of the structure in accordance with the terms of the certificate of occupancy.

2. Application Requirements

a. Responsible Official. The building official shall be the responsible official for a certificate of occupancy.

b. Contents. An application for approval of a certificate of occupancy shall be prepared in accordance with all applicable rules and regulations of the Town of Bartonville.

3. Decision

a. Decision. The building official shall approve or deny the application for a certificate of occupancy.

b. Time for Decision. The building official shall decide the application for a certificate of occupancy within thirty (30) days of the official filing date.

c. Record. A record of all certificates of occupancy shall be kept on file in the offices of the Town Secretary, and copies shall be furnished upon request to any person in accordance with state laws governing public information.

d. Posting of Certificate: Except for single-family structures, the approved certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

4. Appeal

a. Any interested person may appeal the building official's decision on the certificate of occupancy to the ~~Zoning~~ Board of Adjustment~~s~~ (~~Z~~BOA). The ~~Z~~BOA shall decide the appeal in accordance with this ordinance.

5. Criteria for Approval

a. The building official or the ~~Z~~BOA on appeal shall apply the following criteria in deciding the application for a certificate of occupancy:

1. The location of the structure on the property is in accordance with the approved application for the building permit;

2. Where a change of use in an existing structure is proposed, the use conforms to the use regulations governing the property;

3. Where occupancy of a manufactured home is proposed, the manufactured home has been installed in conformity with all applicable rules, regulations and requirements of the Town of Bartonville.

4. The structure, following inspection by the building official, was built in conformity with the Building Code, as may be modified from time to time.

~~4. [~~5~~]~~ _____There are no outstanding permit requirements.

6. Revocation of Certificate

a. The building official may institute proceedings to revoke a certificate of occupancy pursuant to this Appendix A, whenever the official determines that the certificate has been issued in error, or on the basis of incorrect information supplied, or that the use, dimensions, or other feature of the structure authorized for occupancy, or any portion thereof, is in violation of any provision of this Zoning Ordinance or the Building Code or other applicable codes adopted by the Town of Bartonville.

(Ordinance 361-05 adopted 3/22/05)

ARTICLE A3.000
FEES RELATED TO ZONING CHANGES, LAND DEVELOPMENT, PLATTING AND REQUESTS FOR VARIANCE

§ A3.001. General provisions.

(1) Development Review Committee fees. Development Review Committee fees shall be collected for all proposals that include construction of public infrastructure or are of such a nature that the Town Staff believes that a formal review by the Development Review Committee is necessary.

Application Fee:	$750.00

(2) Additional costs; administrative fee. All costs associated with engineering, planning and attorney reviews in addition to the cost of any public notices that are incurred by the Town will be charged to the applicant. One hundred percent (100%) of these costs (not covered by the application fee) plus a $150.00 administrative fee will be charged to the applicant and must be paid before any final plats will be filed, or, in the case of zoning changes, prior to the publication of the zoning change ordinance.

(Ordinance 799-26 adopted 4/21/2026)

§ A3.002. Zoning fees.

Zoning fees:

(1) Zoning change application fee: $400.00.

(2) Conditional Use Permit (CUP): $400.00.

(3) Zoning change reapplication fee: $400.00.

All costs associated with engineering, planning and attorney reviews in addition to the cost of any public notices that are incurred by the Town will be charged against the application fee. One hundred percent (100%) of these costs (not covered by the application fee) plus a $150.00 administrative fee will be charged to the applicant and must be paid immediately upon receipt of invoice from the Town.

(Ordinance 799-26 adopted 4/21/2026)

§ A3.003. Development fees.

Development fees:

(1) Site plan review:

(A) Complete site plan (includes architectural, landscape and civil):

(i) Initial fee: $2,500.00.

(ii) Subs. fee: $1,250.00.

(B) Site plan amendment: $500.00.

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(2) Development Review Committee appointment conference only (non-review): Actual cost.

(3) Concept plan: $450.00.

~~(4) Sketch plat: $200.00.~~

~~(5)~~(4) Development plat:

(A) Preliminary plat: $850.00.

(B) Final plat review fee: $450.00.

(C) Subsequent reviews: Actual cost.

~~(6)~~(5) Minor subdivision platting fees (four lots or less, no infrastructure or drainage issues):

(A) Development Review Committee review: Actual cost.

~~(B) Land study: $350.00.~~

~~(C)~~(B) Preliminary plat: $850.00.

~~(D)~~(C) Final plat review fee: $450.00.

~~(E)~~(D) Denton County filing fees: Actual cost.

~~(7)~~(6) Major subdivision platting fees:

(A) Development Review Committee review: Actual cost.

~~(B) Land study: $500.00.~~

		Initial Fee	Subs. Fee
(~~C~~B)	Preliminary plat review fee	$1,200.00	$600.00
(~~D~~C)	Engineering review fees as applicable:		
	(i) Lighting/franchise utility plan (commercial)	$400.00	$200.00
	(ii) Septic/Sewer plan	$650.00	$350.00
	(iii) Topography and drainage plan	$650.00	$350.00
	(iv) Street and grading plan	$650.00	$350.00
	(v) Landscape plan	$450.00	$250.00

(D) Final plat review fee: $750.00.

(E) Subdivider's agreement and review fee: $550.00.
Revision review: $350.00.

(F) Document legal review (per hour): $300.00.

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(G) Performance/surety bonds: As required.

(H) Public improvements inspection and approval: $2,500 deposit; final fee based on actual cost for Town Engineer inspection and approval ~~(based on estimated construction cost as determined by Town Engineer): 3.5% of construction costs.~~

(I) Denton County filing fees: Actual cost.

~~(8)~~(7) Temporary batch plant permit: $400.00.

~~(9)~~(8) Oil and gas well development plat: $950.00.

~~(10)~~(9) Replat platting fee: See above. A replat shall be designated by the planning staff as either a major or a minor replat. Fees assessed will be that of a major or minor plat, as applicable.

~~(11)~~(10) Plat vacating review fee: $450.00.

~~(12)~~(11) Plat amendment review fee: $450.00.

~~(13)~~(12) Dis~~e~~annexation fees, plus additional expenses incurred: $550.00.

~~(14)~~(13) Board of Adjustment fees: $450.00.

(A) Variance request.

(B) Other hearings.

All costs associated with engineering, planning and attorney reviews in addition to the cost of any public notices that are incurred by the Town will be charged against the application fee. One hundred percent (100%) of these costs (not covered by the application fee) plus a $150.00 administrative fee will be charged to the applicant and must be paid immediately upon receipt of invoice from the Town.
(Ordinance 799-26 adopted 4/21/2026)

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