

**TOWN OF BARTONVILLE
ORDINANCE NO. 484-09**

AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF BARTONVILLE, TEXAS, BY AMENDING CHAPTER 12 BY ADDING ARTICLE 12.400 TO BE ENTITLED RACE AND RALLY EVENTS, PROVIDING FOR THE REGULATION OF ORGANIZED RACES AND RALLIES ON THE PUBLIC STREETS OF BARTONVILLE; PROVIDING DEFINITIONS; PROVIDING FOR PROVIDING FOR THE ISSUANCE, SUSPENSION, REVOCATION OF PERMIT; PROVIDING FOR EXMPTIONS; PROVIDING FOR APPEAL; PROVIDING FOR OPERATING PROCEDURES; PROVIDING FOR INDEMNIFICATION AND LIABILITY INSURANCE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL OTHER ORDINANCES AND REPEALING ANY PROVISIONS IN CONFLICT; PROVIDING A SAVINGS CLAUSE PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 12 of the Code of Ordinances of the Town of Bartonville, Texas is hereby amended by adding Article 12.400, Race and Rally Events, which shall read as follows:

“ARTICLE 12.400 RACE AND RALLY EVENTS”

Sec. 12.401 Definitions.

The following words and phrases, when used in this Article, shall, for the purpose of this article, have the meanings respectively ascribed to them in this section;

Applicant means a person who has filed a written application for a an Event Permit.

Event means race or rally as defined herein.

Event Coordinator means the Bartonville Chief of Police or designee. The Chief of Police will act as the Event Permit Coordinator and be responsible for reviewing the initial Event permit application, coordinating meetings between the applicant/promoter and Town representatives as needed, issuing permits, collecting Event permit fees, and enforcing the provisions of this Article.

Event Permit means approval from the Town or its designated representative for a race or rally to be held on Town of Bartonville streets, roads and/or right-of-ways.

Town sponsored event means an event that the Town Council, by resolution, has:

- (1) declared the Town a sponsor or cosponsor of the event; and/or
- (2) committed the Town to significantly sharing in planning, initiating, financing, supporting, and conducting the event.

Person means any individual, assumed name entity, partnership, association, corporation or other organization.

Permit shall mean the Town of Bartonville's agreement giving the applicant/promoter permission to hold the Event, on the terms and conditions stated in the Permit and subject to the rules, regulations, and requirements of this Article.

Permit Holder means the applicant/promoter or person to whom the Event Permit has been issued.

Promoter means the person seeking to hold the Event, including the promoter's employees, agents, affiliates, successors, permitted assigns, and other persons controlled by the promoter.

Race means a contest of speed, as in running, riding, or driving.

Rally: A competition in which motorists, runners or bicyclists traverse public roads and/or right-of-ways under normal traffic regulations but with specified rules as to speed, time, and/or route.

Reimbursable Costs means all costs and expenses incurred by the Town for activities associated with staging of the Event, including, without limitation, the following:

- (1) barricades and cones;

- (2) Event parking;
- (3) food services inspection;
- (4) repair, maintenance and removal of facilities in the event of a failure of applicant/promoter;
- (5) repair of streets, alleys, sidewalks, parks and other public property;
- (6) police protection;
- (7) fire protection;
- (8) emergency medical service;
- (10) garbage disposal and cleanup;
- (11) traffic control; and
- (12) other direct costs associated with the Event.

Sidewalk means that portion of a street intended for the primary use of pedestrians that is located between the curb lines, or lateral lines of a roadway, and the adjacent property lines.

Street means the entire width between the boundary lines of every roadway publicly owned or maintained, when any part is open to the use of the public for purposes of vehicular travel.

Town means the town of Bartonville.

Sec. 12.402 Permit Required

No Event may be held on a public street, highway or alley without an approved Event Permit. All persons or organizations conducting any form of race or rally shall apply for an Event Permit from the Chief of Police of the Town of Bartonville. The Chief may waive any or all of the requirements imposed by this Article, or may impose additional requirements, as may be deemed necessary for public safety under conditions then existing.

(a) A person commits an offense if he engages in, participates in, aids, or commences an Event Permit within the Town without first making written application for and receiving a permit from the Town.

(b) No permits shall be required under this article for the following:

1. the Armed Forces of the United States of America, the military forces of the State of Texas, political subdivisions of the State of Texas and the Argyle Volunteer Fire Department acting within the scope of their duties;
2. a Town sponsored Event;
3. a funeral procession proceeding by a vehicle under the most reasonable route from a funeral home, church, or residence to the place of service or place of internment;
4. a peaceful demonstration at a fixed location, which is not a street; or
5. a sidewalk procession which observes and complies with the traffic regulations and traffic control devices, using that portion of a sidewalk nearest the street, but at no time using more than one-half of the sidewalk.

Sec. 12.403 Application for Event Permit and Application Fee.

(a) A person desiring to hold an Event shall apply for a permit by filing with the Event Coordinator a written application upon a form provided by the Town for that purpose. Each Event Permit application shall be accompanied by a fee in the amount of fifty dollars (\$50.00). An application for an Event regulated under this Article shall be made not less than forty-five (45) days prior to the date and time of the commencement of the event. The Event Coordinator may waive the forty-five (45) day filing requirements for an Event if the Event Coordinator determines that the application can be processed in less than forty-five (45) days, taking into consideration the type, size and route of the event

(b) An application for which a permit is required must contain the following information:

1. the name, address, telephone number, email address, date of birth, and driver's license number of the applicant/promoter, and, of any other persons responsible for the conduct of the Event;
2. a description of the Event and the requested dates and hours of the Event;
3. the estimated number of persons participating in the Event and three sets of detailed plans showing the area or route to be used during the Event including proposed structures,

- tents, fences, barricades, signs, banners, and restroom facilities;
4. the time and location of street closings, if any;
 5. details of the offer, if any, of merchandise, serving of food or beverages at the Event;
 6. details of how the applicant/promoter will clean up the area used after the Event ;
 7. the Event's commencement and termination time, the specific route to be traveled, and the starting and termination points;
 8. application fees required by the Town;
 9. a copy of contract, agreement, or details outlining arrangement between applicant and promoter, if any.
 10. map of route, staging areas, stops and/or water stations

Sec. 12.404 Approval of Plans

(a) When considering approval of an application, the Event Coordinator may consider, without limitation, the following factors:

1. whether the application allows for ample opportunity to properly plan and prepare for the Event; or
2. whether law enforcement, emergency services and other Town services will be unduly burdened or adversely affected by the the Event; and
3. whether the Event is reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(b) No person shall be discriminated against on the grounds of race, color, national origin or disability.

(c) Permit shall be subject to the applicant/promoter receiving approval from the Event Coordinator prior to the start of the Event.

(e) The Town, by approving such plans, assumes no liability or responsibility therefore.

(f) In addition to the application, each applicant shall submit the following detailed plans:

1. Facilities: a comprehensive set of plans and specifications relating to all temporary facilities to be constructed or utilized for the Event.
2. Food and Beverage Service: a comprehensive plan to provide food and beverage concessions, if any. The appropriate Town personnel shall approve the plan. Food and beverage concessions shall be subject to the provisions of the Bartonville Health Code and any required inspections.
3. Emergency Medical Service: a comprehensive plan to provide adequate emergency medical services at the Event. The plan shall be coordinated through the office of the Argyle Volunteer Fire Department.
4. Parking, assembly or disassembly of Event participants: a comprehensive plan to provide adequate parking for the proposed Event, including written notarized statements giving permission by all of the owners of land to be used for the Event.
5. Police Protection: a comprehensive plan providing for adequate safety, security, traffic and crowd control in connection with the event.
6. Promotional: if applicable, comprehensive plan to promote, market, and advertise the event. Signs and banners shall be permitted through the Building Inspection Department.
7. Sanitation Plan: a comprehensive plan to insure that the highest standards of cleanliness and sanitation are maintained at the special event including adequate restroom facilities and appropriate refuse containers to accommodate refuse generated by its patrons and operations and a plan to empty the containers frequently so as to prevent overflow.

Sec. 12.405 Issuance, Denial and Revocation of an Event Permit

Should the application for an Event Permit reveal that the route requested would interfere with the orderly flow of vehicular and pedestrian traffic, the Event Coordinator shall have the authority to establish a reasonable alternate route and

regulate the occupancy area within the public right-of-way or Town owned property.

(a) The Event Coordinator shall determine whether or not to issue a Event Permit when said event for which the permit is requested would:

1. take place at the same location and/or time as a previously approved Event; or
2. unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available; or
3. begin and/or end outside the Town limits, unless or until the applicant/promoter receives approval from the adjacent Town where the Event begins or ends.

(b) In addition, the Event Coordinator may deny an Event Permit if:

1. the applicant/promoter fails to adequately provide for:
 - A. the protection of event participants; or
 - B. maintenance of public order in and around the Event location; or
 - C. crowd security; taking into consideration the size and character of the event; or
 - D. emergency vehicle access; or
 - E. safe sanitary conditions for preparation or operation of food concessions, if applicable.
2. the applicant/promoter fails to comply with, or the proposed Event will violate a Town ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this article;
3. the applicant/promoter makes a false statement of material fact on an application for an Event Permit;
4. the applicant/promoter fails to provide proof that he possesses or is able to obtain all licenses and/or permits required by this code or other Town ordinances or by other

5. the applicant/promoter fails to notify the businesses affected by the Event, in writing, of street closures ten (10) days prior to the event;
6. the applicant/promoter has had an Event Permit revoked within the preceding twelve (12) months or the applicant/promoter has committed two or more violations of a condition or provision of an Event Permit or of this article within the preceding twelve (12) months;
7. the applicant/promoter fails to pay any outstanding costs owed to the Town for past Event Permits;
8. the applicant/promoter fails to submit the required fees and agree in writing to reimburse the Town for the estimated costs for the proposed Event; or
9. the proposed Event would unduly burden Town services.

(c) The Town may revoke an Event Permit if:

1. the permit holder made a false statement of material fact on an application for an Event Permit.
2. the applicant/promoter has had an Event Permit revoked within the preceding twelve (12) months or the applicant/promoter/ has committed two or more violations of a condition or provision of an Event Permit or of this article within the preceding twelve (12) months.
3. the applicant/promoter fails to comply with or the Event is in violation of a condition or a provision of the Event permit, an ordinance of the Town, or any other applicable law,
4. the applicant/promoter failed to provide a Certificate of Liability Insurance and endorsement agreement naming the Town of Bartonville as additional insured in the amount designated ten (10) days prior to the event;
5. the applicant/promoter failed to pay any outstanding fees or estimated costs owed to the Town for the Event permit;

6. the Event fails to begin in a timely manner as determined by the Event Coordinator, or their designates; or
7. If the permit holder otherwise violates this Article or does not comply with the conditions contained in such permit.

(d) Events shall be limited to no more than four (4) per organization per year.

(e) The Event Coordinator may review licenses and permits required by other Town ordinances, or applicable law, restrictions, regulations, cost for Town services, safeguards, and other conditions necessary for the safe and orderly conduct of an Event , to be incorporated into the permit before issuance.

(f) The Event Coordinator will prepare and provide the applicant/promoter with an invoice detailing these estimated costs. Payment will be required not less than five (5) days prior to the date of the Event . If the actual costs for Town services are less than estimated, the Town will issue a refund to the Event applicant/promoter no less than two weeks after the Event.

Sec. 12.406 Appeal of Denial or Revocation of Permit

If the Event Coordinator denies the issuance or revokes a permit, the Event Coordinator shall send to the applicant/promoter or permit holder, by certified mail, return receipt requested, written notice of the denial or revocation, and of the right to an appeal. The decision of the Event Coordinator is final unless the applicant/promoter or permit holder appeals the decision within three (3) business days of receipt of the notification to the Mayor, in writing. The Town Council shall, within twenty-one (21) days after the appeal is filed, consider all the evidence in support of or against the action appealed and render a decision either sustaining or reversing the denial or revocation. The decision of the Town Council shall be final.

Sec. 12.407 Contents of Permit

Each Permit issued shall state the date(s), starting time, ending time, location, and other special conditions or requirements necessary for the safe and orderly conduct of the Event .

Sec. 12.408 Operating Procedures

(a) An Event shall not substantially interrupt the safe and orderly movement of traffic near the Event .

(b) The Town has the right (but not the obligation) to postpone, cancel or close early the Event because of hazardous weather or other acts of God or for

public safety and welfare. The Town shall have no liability for such postponement, cancellation, or closure. Further, the Town shall have no liability from the failure to postpone, cancel, or close early the Event under such conditions.

(c) An Event shall not interfere with proper fire and police protection of, or ambulance service to, areas near the Event or unreasonably require the diversion of police and fire protection and ambulance service from other parts of the Town.

(d) A permit holder shall comply with all directions and conditions contained within the permit and with all Town ordinances and other applicable laws.

(e) The Town, when reasonably necessary, may prohibit or restrict the parking of vehicles along a street or highway or part thereof on a route or part thereof or on the approach to an Event. The Town shall post notice to such effect; and it shall thereafter be unlawful for any person to park, leave, or strand any unattended vehicle in violation thereof.

(f) The Town, when reasonably necessary, may temporarily close or restrict the use of Town streets or other public property for an Event. The Town may install temporary traffic control devices for the temporary closure or restriction of Town streets and/or public property for Events. It shall be unlawful for any person to disregard or disobey any such temporary traffic control device.

(g) The driver of any vehicle or other participant shall obey the instruction of any traffic control device applicable thereto placed in accordance with the Town of Bartonville Code of Ordinances or the Texas Transportation Code, unless otherwise directed by a law enforcement officer.

(h) Operators of specialized vehicles or performance-enhanced vehicles shall be mindful of Texas Transportation Code Section 545.420(a)(5); “a person may not participate in any manner in an exhibition of vehicle speed or acceleration.” Any operator of a vehicle participating in an exhibition of acceleration will be cited by law enforcement officers and immediately removed from the Event.

(i) The throwing or tossing of water bottles, cups, food wrappers, or other material onto public or private property is specifically prohibited.

(j) Temporary or permanent markings on the surface of a public roadway is specifically prohibited.

(k) Temporary signs indicating routes or giving instructions to participants may be placed in the right-of-way. Event signs may not exceed four

(4) square feet in effective area and shall not be placed on utility poles, traffic control signs/or devices or fences. Event signs may be placed in the right-of-way twelve (12) hours prior to the beginning of the Event and shall be removed within two (2) hours after the Event has ended.

(l) In the event that traffic direction or redirection is deemed necessary, the Chief of Police may require the applicant to remit payment for such traffic control officers as may be necessary to direct traffic throughout the race event. Off duty police officers shall serve as traffic control officers. The Chief of Police will determine the location and number of officers necessary for the safe conduct of the Event. Said officers will each be paid in accordance with area rates and standards. A Cash Bond to insure payment to the officers may be required prior to the beginning of the Event.

Sec. 12.409 INDEMNIFICATION; LIABILITY INSURANCE

(a) An applicant/promoter for an Event Permit must execute a written agreement to indemnify the Town and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the Event. This indemnification shall include the following statement:

“PERMIT HOLDER shall defend, protect and keep TOWN forever harmless and indemnified against and from any penalty, or any damage, or charge, imposed for any violation of any law, ordinance, rule or regulations arising out of the use of the property by the PERMIT HOLDER, whether occasioned by the neglect of PERMIT HOLDER, its employees, officers, agents, contractors, or assigns or those holding under PERMIT HOLDER. PERMIT HOLDER shall at all times defend, protect, and indemnify and it is the intention of the parties hereto that PERMIT HOLDER hold TOWN harmless against and from any and all loss, cost, damage, or expense, including attorney’s fees, arising out of or from any accident or other occurrence on or about the property causing personal injury, death or property damage resulting from use of property by PERMIT HOLDER, its agents, employees, customers and invitees, except when caused by the negligence or willful misconduct of TOWN, its officers, employees or agents, and only then to the extent of the proportion of any fault determined against TOWN for its willful misconduct. PERMIT HOLDER shall at all times defend, protect, indemnify and hold TOWN harmless against and from any and all loss, cost, damage, or expense, including attorney’s fees arising out of or from any and all claims or causes of action resulting from any failure of PERMIT HOLDER, its officers, employees, agents, contractors or assigns in any respect to comply with and perform all the requirements and provisions hereof.”

(b) An applicant for an Event shall secure and obtain liability insurance coverage in an amount of not less than one million dollars

(\$1,000,000.00) to insure against personal injury, death and property damage arising from the conduct of the Event. The Town shall be named as an additional insured on said policy and shall be furnished, in conjunction with the permit application, a certificate of insurance showing the foregoing coverage.

Sec. 12.410 Offenses

A person commits an offense if he knowingly:

1. commences or conducts an Event without the appropriate permits or fails to comply with any requirement or condition of a permit or any provision of this article.
2. participates in an Event for which a permit has not been granted.”

SECTION 2. **CUMULATIVE CLAUSE**

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

SECTION 3. **SAVINGS.**

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

SECTION 4. **SEVERABILITY**

It is hereby declared to be the intention of the Town Council of The Town of Bartonville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Town Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6.
ENGROSSMENT AND ENROLLMENT

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

SECTION 7.
PUBLICATION

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

SECTION 8.
EFFECTIVE DATE

This Ordinance shall be in full force and effect upon passage and publication in the official newspaper.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the Town Council of the Town of Bartonville, Texas, on the 20th day of October, 2009.

APPROVED:

Ron Robertson, Mayor

ATTEST:

Debbie E. Millican, Town Administrator