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ORDINANCE # 92

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF TONTITOWN, ARKANSAS

WHEREAS, the City Council of Tontitown, Arkansas deemed it necessary to insure quality development for it's growing population by setting reasonable development standards which could be implemented in keeping with it's adopted Land Use and Master Street plans; and

WHEREAS, the Tontitown Planning Commission has prepared a new zoning ordinance which incorporates desired standards for quality development.

NOW THEREFORE BE IT HEREBY ORDAINED by the City Council of Tontitown, Arkansas, in regular session assembled as follows:

SECTION I PURPOSE

It is the intent of this zoning ordinance to divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; to regulate the intensity of the use of lot areas and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified industrial, business, residential and other uses within such area; to fix standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures incompatible with the character of such districts, respectively; to prevent additions to and the alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; to limit congestion in the public streets by providing for the off-street parking and loading and unloading of vehicles; providing for the gradual elimination of non-conforming uses of land, building and structures; and prescribing penalties for the violation of this ordinance; 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 conserve the taxable value of land and buildings throughout the city; to promote the public health, safety, and general welfare; and for other purposes.

SECTION II TITLE

This ordinance may be known and may be cited as the City of Tontitown Zoning Ordinance No. ___, 1991.

SECTION III DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future words used in the singular number shall include the plural number, and the plural the singular; the word "building" shall include the word "structure"; and the word "lot" shall include the word "plot"; and the "shall" is mandatory and not directory.

Accessory Buildings and Uses: An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as, the use of the main building or principal use of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and on the same lot as, the main use of the premises. When "accessory" is used in the text, it shall have the same meaning as accessory use.

the same lot as, the main use of the premises. When "accessory" is used in the text, it shall have the same meaning as accessory use.

Acreage: Any tract or parcel of land which has not been subdivided and platted.

Alley: A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Apartment: A room or suite of rooms in a multi-family structure which is arranged, designed, use or intended to be used as a housekeeping unit for a single family.

Automobile Junk or Salvage Yard: An area outside of a building where motor vehicles are disassembled, dismantled, junked, or "wrecked", or where motor vehicles not in operable condition or used parts of motor vehicles are stored.

Basement: A story partly or wholly underground. Where more than one-half of its height is above the average level of the adjoining ground, a basement shall be counted as a story for purpose of height measurement.

Billboard: Any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

Building: Any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable; the word building shall include the word structure.

Building Area: The buildable area of a lot is the space remaining after the minimum open space requirements of this ordinance have been complied with.

Building, Height of: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

Building Line: A line drawn on plats and other property description maps delineating the area within which a structure can be built.

Building, Main or Principal: A building in which is conducted or intended to be conducted, the main or principal use of the lot on which said building is located.

Carport: A structure attached or made a part of the main structure, and which is open to the weather on a least two sides, intended for the use of sheltering not more than two motor driven vehicles.

Child Care Center: Any place, home or institution which receives five or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree of the custodial persons, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities.

Clinic, Dental or Medical: A facility for the examination and treatment of ill and afflicted

human out-patients; provided, however, that patients are not kept overnight except under emergency conditions.

Court: An open unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such building.

Curb Grade: The established elevation of the curb in front of the building measured at the center of such front. Where no curb grade has been established, the city shall establish such curb grade or its equivalent for the purpose of this ordinance.

District, Zoning: Any section, sections, or divisions of the City for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform.

Drive-in Commercial Uses: Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, and similar uses.

Dwelling: Any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers, mobile homes, or travel trailers.

Dwelling, Attached: A dwelling having any portion of one or more walls in common with adjoining dwellings.

Dwelling, Detached: A dwelling having open space on all sides.

Dwelling, One-family: A detached residential dwelling unit designed for and occupied by one family only, and being securely attached to a permanent foundation.

Dwelling, Mobile Home: A detached residential dwelling unit designed for transportation on streets or highways on its own wheel or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

Dwelling, Two-family: A dwelling designed to be occupied by two families living independently of each other.

Dwelling, Multiple-family: A dwelling designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

Dwelling, Townhouse or Row House: Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

Dwelling Units: One or more connected rooms established for owner occupancy, rental or lease, and physically separate from any other rooms or dwelling units in the same structure and containing independent cooking and sleeping facilities.

Family: One or more person related by blood or marriage, including adopted children, or a group of not to exceed four (4) persons not all related by blood or marriage, occupying premises and living as a single, non-profit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family may include domestic servants employed by said family.

Fence: A man-made barrier constructed to provide privacy or visual separation between one ownership and another.

Floor Area: The sum of the gross horizontal areas of all of the floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings.

Garage, Private: An accessory building or a part of a main building used for storage purposes only for vehicles and personal belongings, used solely by the occupants and their guests of the building to which it is accessory.

Garage, Public or Repair: A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

Gasoline or Service Station: Any building, structure, or land used primarily for the dispensing and sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, body work, major repairs, or automatic washing facilities.

Home Occupation: Any use conducted within the dwelling and carried on by the inhabitants which is clearly incidental and secondary to dwelling purposes and does not change the character thereof; provided that no article is sold or offered for sale except that produced on the premises by members of the immediate family.

Hospital: An institution providing health services primarily for human in-patient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, facilities and staff offices which are an integral part of the facilities.

Hotel: A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the occupants and guests. This definition does not include an auto or trailer court or camp, sanatorium, hospital asylum, orphanage, or building where persons are housed under restraint.

Kennel: Any lot or premises on which four (4) or more dogs, more than six months of age are kept for personal use or boarding.

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot: A parcel of land occupied or intended for occupancy by a use permitted in this ordinance including one main building together with its accessory building, and the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street.

Lot, Area: The total horizontal area included within the lot.

Lot of Records: A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder of Washington County prior to the adoption of this ordinance.

Lot, Corner: A lot abutting upon two or more streets at their intersection.

Lot, Depth: The horizontal distance between the front and rear lot lines measured at right angles to the lot width at a point midway between the side lot lines.

Lot, Double Frontage: A lot which is an interior lot extending from one street to another and abutting a street on two ends.

Lot Lines: The lines bounding a lot as defined herein.

Lot Line, Front: In the case of an interior lot, the line separating said lot from that street which is designed as the front street in the request for a building permit.

Lot Line, Rear: The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line as defined herein.

Lot, Interior: A lot other than a corner lot.

Lot, Width: The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Manufactured Home: A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

Mobile Home: A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and designed to be used as a year-round residential dwelling unit. A mobile home which is to be located in a mobile home park shall meet all of the specifications and standards as required for such mobile home parks and each individual mobile home must be anchored in compliance with the design load requirements of the Building Code of the City of Tontitown, Arkansas. A mobile home which is to be placed in an approved mobile home subdivision must be placed upon poured footings and piers or perimeter foundations constructed to Building Code specifications and completely enclosed (no exposed piers); and all transport elements such as wheels, axles, trailer or transport hitches and exterior light systems attached for highway usage must be removed. Furthermore, all such mobile homes shall provide on-site an all-weather off-street parking space and the placement of the mobile home must be such that it conforms with all bulk and area requirements of the zoning district.

Mobile Home Park: Land or property containing a minimum of two (2) acres which is used or intended to be used or rented for occupancy by mobile homes or movable sleeping quarters of any kind.

Motel: A motel or motor court is a business comprised of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.

Non-conforming Use: Any building or land lawfully occupied by a use at the time of passage of this ordinance which does not conform with the use or area regulations of the district within which it is located.

Nursing Home: Any premises where more than three persons are lodged and furnished with meals and nursing care.

Open Space: An unoccupied space open to the sky on the same lot with the building and occupied by no structure or portion of structure whatever.

Parking Lot: An off-street facility including parking spaces and drives and aisles for maneuvering, and providing access and for entrance and exit, developed in a way to accommodate the parking of automobiles.

Parking Space, Off-street: An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides.

Principal Use: The specific primary purpose for which land, building, or structure is used or intended to be used.

Porch: A roofed projection out from the wall or walls of a building and commonly open to the weather in part.

Public Utility: Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewage.

Satellite Television Receiving Dishes, Ground Mounted: A device commonly parabolic in shape, mounted at a fixed point on the ground for the purpose of capturing television signals transmitted via satellite communications facilities and serving the same or similar function as the common television antenna. Said devices are herein defined as accessory structures.

Service Station: See Gasoline Service Station.

Setback: Distance between the lot line and the building line.

Sign: A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, word, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of an announcement, direction, advertisement, or other attention directing device. The following shall not be included in the application of the regulations herein:

- (a) Signs not exceeding one square foot in area in bearing only property numbers, post box number, names of occupants, or premises or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices, identification, informational or directional signs erected or required by governmental bodies;
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- (e) Signs directed and guiding traffic and parking on private property but bearing no advertising matter.

Sign Area: The area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area.

Sign, On-Site: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, Off-Site: A sign other than an on-site sign.

Sign, Portable: A sign designed to be easily moved from site to site which may also have provisions for lighting and which may display subject matter not related to the site upon which it is placed.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half story is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of each story.

Street Line: The right-of-way line of a street.

Street: Any public or private thoroughfare which affords the principal means of access to abutting property.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Travel Trailer: The travel trailer unit is a dependent temporary single-family dwelling built on a chassis not exceeding 8 feet wide and 32 feet long designed for short-term occupancy and frequent travel, requiring park services for utility and sanitary facilities. Unit may be self-propelled or towed behind a vehicle without a special permit required.

Travel Trailer Park: A unified development under private ownership designed primarily for transient service, on which travel trailers, pick-up coaches, and self-propelled motorized vehicles are parked or situated for short-term occupancy. The owner shall provide park services for utility and sanitary facilities.

Use: The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Yard: An open space on the same lot with a building unobstructed from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

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

Yard, Rear: A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entryways.

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

Zoning Lot: A parcel of land that is designated by its owner or authorized agent as a tract, all of which is to be used, developed, or built upon as a unit under a single ownership. A zoning lot may consist of any standard lot or a combination of lot and any legally recorded portion of a lot that existed prior to the passage of this Ordinance. When determining the front, rear and side yard setbacks for a zoning lot, the required distance shall be measured from the exterior boundaries of said zoning lot.

SECTION IV THE ZONING MAP

1. Adoption. The City of Tontitown, Arkansas, is hereby divided into districts as shown on the official zoning map, a copy of which is attached hereto and marked "Exhibit A" for reference, and which is hereby adopted as part of this ordinance.
2. Authentication. The official zoning map shall bear the signature of the mayor of Tontitown, Arkansas, attested by the City Clerk and the Recorder, and shall also bear the date of the adoption of this Ordinance. The official zoning map shall be conclusive proof of the districts designated thereon.
3. Amendment. Any changes to the zoning map may be made only in conformance with the amendment procedures of this ordinance. Such changes shall be promptly entered on the map with the date and ordinance number affecting the changes.
4. Map Interpretation. In interpreting the boundary line of any district shown on the zoning map, the following rules shall apply:
 - A. Boundary lines following streets and alleys shall be construed as following the center lines thereof.
 - B. Boundary lines approximately following lot or parcel lines shall be construed as following such lot or parcel lines.
 - C. Boundary lines dividing a lot or parcel shall be construed as being in the scaled location shown on the map.
 - D. Boundaries indicated as approximately following city limits shall be construed as following city limits.
 - E. Boundaries interpreted as following railroad lines shall be construed to be midway between the main tracks.
 - F. Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be so construed.
 - G. In circumstances not covered by the preceding rules, the Board of Adjustment shall interpret the district boundaries.

SECTION V GENERAL PROVISIONS

1. All streets, alleys and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, or railroad right-of-way where the center line of a street or alley serves as a district boundary the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
2. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building or land is located.
3. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located. Exceptions are roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment to operate and maintain the building, and fire walls, sky lights, towers, steeples, flagpoles, chimneys, smokestacks, radio and television aerials or antennas, wireless masts, water tanks, or similar structures. These exceptions may be erected above the height limits herein prescribed but when erected they shall not extend more than twenty-five (25) feet above the height limits of the district in which located. Aerials or

Antennas designed to aid home television or radio reception may be erected to a height not to exceed sixty (60) feet from the ground level, provided they are attached to the building or erected in the rear yard area.

4. No structure shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which it is located.
5. No space of a lot defined by this ordinance as part of a side yard, rear yard, front yard, court or other open space may (by reason of change in ownership or otherwise) be counted or calculated to comply with a yard, court or other open space requirement of or for any other building.

An open terrace, not roofed over, may occupy a front yard provided the unoccupied portion of the front yard has a depth of not less than fifteen (15) feet. A one-story bay window may project into a front yard not more than three feet. Overhanging eaves, including gutters, may project over the minimum required side yard not more than eighteen (18) inches.

The minimum side yards or other open spaces, including lot areas per family required by this ordinance for each and every building existing at the time of passage of this ordinance, or for any building hereafter erected, shall not be encroached upon or considered as yard or open-space requirements for any other building. Swimming pools shall not be placed in the ground over designated alternate septic field areas in any required yard or open space.

6. Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined and in no case shall there be more than one such building on one lot unless otherwise provided in this ordinance.
7. Any separate tract of record at the time of the adoption of this ordinance, that does not meet the requirements of this ordinance for yards, courts, or other area of open space may be utilized for single residence purposes provided the requirements for such yard or court area, width, depth or open space is within seventy (70%) percent for that required by the terms of this ordinance. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.
8. No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public street or permanent easement of access to a public street which easement shall have a minimum width of twenty-five (25) feet, unless an easement of lesser width was of record prior to the adoption of this amended ordinance.
9. No wall, fence or shrubbery shall be erected, maintained or planted on any lot which obstructs or interferes with safe traffic visibility on a curve or at any street intersection within a triangle formed between the corner and a point twenty five (25) feet down each street along the street right-of-way line.
10. A dwelling shall not be erected in the "C" commercial district; however, sleeping quarters without kitchen facilities for a watchman or caretaker are permitted.
11. Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this ordinance, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within two years from the date of passage and publication of this ordinance.
12. An area indicated on the official "zoning map" as a public park or recreation area, public utility area, cemetery, public school site, or semi-public open space, shall not be used for any other purpose, and when the use of the area is discontinued, it shall automatically be zoned "R-1" until otherwise zoned.

*Any area annexed to the city shall, upon such annexation, be automatically zoned "A-1" until
otherwise zoned.*

SECTION VI. DISTRICTS

1. In General. The City of Tontitown, Arkansas, is hereby divided into the zoning districts listed below. No use permitted in one district shall be permitted in any other district unless so provided in this chapter.

**A-1 - AGRICULTURAL
R-1 - LOW DENSITY RESIDENTIAL
RMH - MOBILE HOMES
R-O - RESIDENTIAL OFFICE
C - GENERAL COMMERCIAL**

2. Application. For any proposed use which is not expressly permitted or prohibited within a district, the Planning Commission shall determine whether the use shall be allowed within the district and shall consider the following factors:

- A. The character of uses expressly permitted in the district.
- B. The traffic flow which would be created by the proposed use.
- C. Any possible air, water or noise pollution.
- D. Parking and access requirements of the proposed use.
- E. Any necessary extension of utilities.
- F. Existing neighborhood uses including those now within the district for which the use is proposed.
- G. The expected impact of the proposed use on the aesthetic character of the City of Tontitown, Arkansas.

3. Zoning Districts, Character and Description

A. **Districts.** Zoning districts are designed to provide a suitable environment for all community endeavors including accommodations for living and working with recreation areas, schools, churches, community facilities and public utilities. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and other facilities through consideration of the proper functional relationship between each element. Each zoning district should be protected from encroachment by incompatible uses to keep the character of the zone intact.

- 1) **A-1: AGRICULTURAL.** The Agricultural district is designed to provide for the compatible existence of agricultural activities within the city's corporate boundaries so that agricultural uses are protected as a valuable natural resource and do not unduly disturb the desirable functioning of residential, commercial, industrial or other uses.
- 2) **R-1: LOW DENSITY RESIDENTIAL.** The low density residential district is intended to provide for the development of medium and large lot family residences and related recreational, religious and educational facilities normally required for a balanced and attractive residential area.
- 3) **RMH MOBILE HOME DISTRICT.** This district provides for lower cost housing through the location of mobile homes in the City of Tontitown in rental park settings, or in subdivisions which provide for ownership of structure and lot. The district should be located so that it does not adversely affect established residential patterns and densities in the city but it should also have the public utilities, community facilities, and other public services that will provide a

healthful living environment with all the normal amenities of Tontitown's other residential districts.

- 4) **R-O RESIDENTIAL OFFICE DISTRICT.** This district provides for the harmonious blending of residential and low activity commercial and professional office uses having more of a residential than a commercial character in building types, open space, traffic circulation, and parking arrangements. This district is also provided as a buffer for the stabilization of residential land use on the fringe of high activity commercial and industrial areas and to protect adjacent residential areas from commercial and industrial encroachment. All residential uses are allowed in this district including the following and other similar commercial uses:

Accountants	Architects	Chiropractors
Dressmaking	Engineers	Hairstylists
Photographers	Physicians	Realtors
Public Facilities	Surveyors	Light Retail
Offices	Multifamily units at RMR standards	
Single Family units	Craft & Art Studios (2 to 4 students).	

- 6) **C GENERAL COMMERCIAL DISTRICT.** This district provides for the development of all types of retail commercial activity including retail uses and personal services normally accessible to the public. The district also provides for general industrial activities, on appeal, including manufacturing, wholesaling, warehousing, storage, assembling, packaging, and related uses.

Permitted Uses by Zoning District Table

The following table indicates allowable uses by an X or AP opposite the use and under the column for each zone in which the use is allowed. An "X" indicates the use is allowed. An "AP" indicates the use is permitted only on appeal - these uses should only be approved when they will not adversely affect surrounding property because, in some circumstances, they can create undesirable changes an area.

USES PERMITTED by ZONING DISTRICT - Table 1

PERMITTED USES		ZONING DISTRICTS				
X=Use Permitted						
AP=Use only permitted on Appeal		A-1	R-1	RMH	R-O	C
-----		-----				
Accessory Uses defined in Sec X that are accessory to permitted uses.		X	X	X		
Aircraft Landing Strip					AP	AP
Antique Shop		AP				
Automotive Body Shop						AP
Automotive Car Wash						X
Automotive Service Station						X
no painting, motor/body repair						
Bank,					AP	X
Barber & Beauty Shop					AP	X
Bulk Storage - Goods & Materials*					AP	AP
Child Care Center		AP	AP	AP		
Chiropracist, Pharmacy					AP	X
Church - places of worship		AP	X	X		
Clinic - Dental, Medical, Osteopath					AP	X
Club or Lodge						X
Club or Lodge - Private					AP	AP
Community Building			AP	AP	X	AP
Drug Store						X
Dry Cleaners						X
Eating Place with auto service						X
Eating place, interior dining						X
No drive-in service						
Field Crops/Gardens		X	X	X	X	X
Florist Shop & Greenhouse						X
Funeral Home, Mortuary, Undertaker					AP	X
Hospital, Health Center			AP	AP	AP	AP
Institution for Aged or Children						
Nursing/Rest Home						
Hotel						X
Mobile Homes - Individual		AP		X		
Manufacturing						AP
Manufactured Homes		AP		X		
Mobile Home Parks & Subdivisions				X		
Park/Recreational Facility AP			X			
Processing Plant						AP
Professional Offices					X	X

=====					
PERMITTED USES (Continued)		ZONING DISTRICTS			
X=Use Permitted					
AP=Use only permitted on Appeal		A-1	R-1	RMH	R-O C

Public Buildings & Facilities				AP	X
Retail Establishments				AP	X
Rooming/Boarding House		X			
School, Nursery or Day Care				AP	X
School, Nursery, Day Care				AP	X
for Children subject					
to Section 5					
School, Public or Parochial				AP	X
Single Family		X	X	X	X
Single Family Mfg. Home				X	X
Single Family Zero Lot Line			AP	X	X
Studio, Photographic, Musical				X	X
Theatre, indoor					X
Warehousing, inside storage					AP
Wholesale establishment					AP

NOTE: All exterior bulk storage of goods and materials must be within the confines of structures or enclosed entirely by a sight-proof fence at least six feet high. Screening adjacent to rail siding facilities is not required.

Yard and Area Requirements. The minimum lot area for all residential structures, including mobile homes, shall be one acre. No lot or yard shall be established or reduced in dimension or area in any district that does not meet the minimum requirements set forth in this section. No building or structure shall be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in the following table. All uses not specifically listed below, e.g. community facilities, public utilities, etc., shall meet the most restrictive area, yard and height requirements listed below for the zoning district in which they are located. Because soil conditions on specific sites may not allow the densities stated below, lot sizes shall be one acre or more if required by state health department regulations concerning minimum lot area required for septic tank field lines. In addition, no structure may be permanently placed on any yard area designated as an alternate septic field.

ZONING DISTRICT		H I H I H U H S							MAXIMUM HEIGHT	
& USE	LOT AREA	LOT AREA	LOT	FRONT	S I D E	Y A R D	REAR	STORIES	FT.	
	SD. FT. per FAMILY		WIDTH	YARD INTERIOR	EXTERIOR--CORNER	BACK TO BACK TO				
						REAR SIDE				
A-1 Single Family	1 acre	1 acre								
Single M. H. ^a	5 acres									
R-1 Single Family	1 acre	1 acre	85	35	15	35	15	35	2 1/2 35	
RHW M. H. Subdiv.	5 acres	1 acre	85	35	15	35	15	35	1 15	
M. H. Park	2 acres	1 acre	85	35	15	35	15	35	1 15	
Single M. H. ^a	1 acre	1 acre	85	35	15	35	15	35	1 15	
R-O Single Family	1 acre	1 acre	85	35	15	35	15	35	2 1/2 35	
Other R-O uses	20,000		85	35	15 & 35 ^b	35	25		2 30	
C Commercial	20,000		60	35	10 & 15 ^b			35	2 36	
Industrial	1 acre		200	60	35 & 60 ^b	60	60	35 & 60 ^b		

^a. The lot must adjoin a public street

^b. When abutting residential property.

6. Conditional Uses and Permits

- A. **General.** Some uses are unique and may only be appropriate in a particular zoning district under special conditions relative to adjacent property and the physical characteristics of the use. Consideration must be given to each application for a conditional use to insure that reasonable conditions and restrictions can be provided to protect the character and integrity of the area in which the use is being requested.
- B. **Conditional Uses Restricted to Specific Districts.** Uses which are listed as Conditional Uses may be located only in the districts designated in accordance with the Application and Review procedures in this section.
- C. **Uses Permitted in Any District.** The following uses are permitted in any district but must each be applied for in accordance with the Application and Review Procedures in this section: (1) Cemetery or mausoleum, (2) Greenhouse, (3) Hospital or Sanatorium, (4) Aircraft Landing Field, (5) Radio Transmitting Station & Tower, (6) Removal of gravel, topsoil, or similar neutral material, (7) Public Utility structure, (8) Schools and (9) Churches.

Application and Review Procedures

- 1) An application for a Conditional Use Permit must be filed by the owner of the property with the City Clerk. The application must identify; (a) Name and address of Applicant; (b) Type of use proposed; (c) Location of the site of the intended use; (d) Owners of adjacent properties; and (e) Any other information pertinent to the use being requested.
- 2) The City Clerk shall publish a notice of a Public Hearing by the Planning Commission on the proposed conditional use in a newspaper of general circulation in the City of Tontitown at least fifteen (15) days prior to the public hearing. The public hearing notice will state the day, date, time and location of the public hearing.
- 3) The City shall post a sign which states "CONDITIONAL USE PERMIT REQUESTED FOR THIS PROPERTY" in a prominent place within the street right-of-way at the front of the property. The sign must be at least two (2) feet by two (2) feet with letters four (4) inches high and must also display a copy of the application and the public hearing notice in a weatherproof container. {insert a drawing}
- 4) At the public hearing the Planning Commission shall determine the nature and condition of all adjacent uses and structures and if the proposed use will cause a change, an improvement, or an adverse effect upon the adjacent property relative to (a) traffic volume; (b) noise; (c) sight; (d) sound; (e) aesthetic value; and (f) economic value.
- 5) If an application for a conditional use permit is approved, the conditions of approval shall be listed on the permit which shall also include any time limit on the approved duration of the special use.
- 6) All conditional use permits shall be reviewed one year from the time of issue and annually thereafter by the planning commission. A special called review of a conditional use permit may be initiated by a written complaint by a citizen of Tontitown which must cite specific violations of the conditions of the permit. The holder of the conditional use permit shall be notified of all annual and special reviews by certified mail at least 15 days prior to the review. The holder of the permit is also responsible for submitting his or her correct mailing address to the City Clerk immediately upon changing mailing addresses. Any permitted conditional use found not to be in conformance with the conditions of the permit shall be revoked by the City Clerk if the owner does not bring the use into compliance within 30 days of the annual review or special called review.

SECTION VII - NON-CONFORMING STRUCTURES AND USES OF LAND

1. Non-conforming Use of Land

Where, on the effective date of adoption of this Ordinance, a lawful use of land exists under the terms of these zoning regulations as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy an area of land 600 sq. ft. greater than was occupied at the effective date of adoption or amendment of this Zoning Ordinance. (2) If any such non-conforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

2. Non-conforming Structures

- A. Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of these regulations by reasons of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- B. Such structure, upon approval of the Board of Zoning Adjustment, may be remodeled to maintain the premises in a safe and usable condition.
- C. Should a structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.
- D. Such structure, upon the approval of the Board of Adjustment, may be added to if said addition meets the area requirements of the land use zoning district in which the structure is located, provided said use of structure is in conformance with this Zoning Ordinance.

3. Non-conforming Use of Structures

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any non-conforming use may be extended to any portion of a structure arranged or designed for such non-conforming use at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any non-conforming use of a structure or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment shall determine that the proposed use is equally appropriate to the district as the existing non-conforming use.
- D. Any non-conforming use, once changed to a conforming use, shall thereafter conform to the regulations for the district in which such structure is located and all new uses shall be conforming uses.

- E. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- F. Should a structure containing a non-conforming use be destroyed by any means to an extent of more than 60 percent of its replacement cost at time of destruction, the owner may request permission of the Board of Adjustment to reconstruct the structure and to continue the non-conforming use. The Board of Adjustment may grant or deny a request to reconstruct such a structure. In granting a request to reconstruct the structure, the Board may require conformance to yard requirements, on-lot parking space, adequate screening from adjacent uses and such other items deemed appropriate to the district in which located.

SECTION VIII - OFF STREET PARKING REQUIREMENTS

1. General Requirements.

- A. All parking spaces required by this article shall be paved with a sealed pavement surface and maintained so that no dust is caused by continued use.
- B. Parking spaces used with an existing building on the effective date of this ordinance are counted, as is, but shall not be counted to serve additions to the building or any new building - unless the spaces meet the requirements of this section.
- C. Total parking space requirements for mixed uses shall be the total of all uses calculated according to the square footage which each use occupies.
- D. A parking space shall not be substituted for a loading space nor a loading space for a parking space.
- E. Except for one and two family homes, no parking space shall be designed so that a vehicle is required to back into a public street for egress.
- F. Parking spaces adjacent to residential zones shall be screened from view of the residential zone(s) by a barrier of vegetation or fencing which is opaque and not less than five (5) feet or more than seven (7) feet high and maintained in good condition.

2. Parking Area Requirements.

- A. Automobile parking spaces shall be a minimum size of nine (9) feet by twenty (20) feet.
- B. Handicapped parking spaces shall be a minimum of fifteen (15) feet wide (which includes a 5 foot striped access aisle) by twenty (20) feet. Two handicapped spaces may share a single access aisle within a total space of twenty five (25) feet by twenty (20) feet.
- C. Residential driveways shall not exceed twenty five (25) feet in width. Commercial driveways shall not exceed thirty five (35) feet in width. These requirements are exclusive of curb returns.
- D. When parking spaces are provided in the front yard of multifamily housing they must be set back at least fifteen (15) feet from the street right-of-way line. In addition, the area between the street right-of-way line and the parking must be planted with grass, shrubs or ground cover.
- E. All parking spaces shall be on the same lot which the use or building occupies, except for Churches as explained in the Parking Spaces Required table below.

When calculating parking requirements any fraction over 1/2 shall be considered as 1 additional space.

- G. For any use not covered below the planning commission shall determine the user demand and the amount of off street parking required.

3. Parking Spaces Required.

The following table lists the required parking space for the uses identified.

<u>USER GROUP</u>	<u>SPACES per Condition</u>
All Residential Uses	1 - each dwelling unit.
Auditoriums, Churches*, Halls Funeral Homes & Theatres	1 - each 3 seats based upon maximum seating capacity and 1 per each employee.
Building Materials sales of retail floor area.	1 - each employee and 1 per each 400 sq. ft.
Convalescent, Nursing and Rest Homes	1 - each 6 bed, 1 per each 4 employees and 1 per each staff or visiting doctor.
Hotels & Rooming Houses	1 - each guest room.
Office Buildings, Lodges & Private Clubs**	1 - each 300 sq. ft. of gross floor area excluding storage & service areas.
Retail Sales space, whichever is greater.	1 - each 200 sq. ft. of retail or public
Restaurants**	1 - each 50 sq. ft. of dining area.
Industrial, Wholesale & Warehousing	1 - each employee of largest shift and 1 per each truck to be stored on premises.

* Churches may use joint parking facilities for a maximum of 50% of the required spaces if they are located within 400 feet of the Sanctuary.

** When dining facilities are included with other uses additional parking spaces will be added according to Restaurant parking standards.

4. Off-Street Loading and Unloading Requirements

- A. One (1) off-street loading space shall be provided for buildings whose principal use is handling and selling retail goods with a gross floor area up to and including ten thousand (10,000) square feet. One (1) additional space will be required for each additional ten thousand (10,000) square feet of gross floor area.
- B. One (1) off-street loading space shall be provided for buildings whose principal use is manufacturing, repair, wholesale and similar uses with a gross floor area up to and including ten thousand (10,000) square feet. One (1) additional space will be required for each additional forty thousand (40,000) square feet of gross floor area.

Loading spaces for trailer trucks shall be twelve (12) by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with an adequate maneuvering area and an appropriate means of truck access to a street or alley.

5. Parking and Storage of Commercial Vehicles and Trailers. Commercial vehicles and trailers of all types, including travel, camping, hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

- A. Not more than one commercial vehicle per family living on the premises, shall be permitted and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.
- B. No trailer (either camping, hauling, travel or other type) shall be parked or stored for more than one week unless the trailer is located behind the front yard building line. A camping or travel trailer shall not be used for permanent occupancy while it is parked or stored in any area within the incorporated limits.

SECTION IX SIGNS

1. Intent and Purpose. The city council of the City of Tontitown recognizes the valid use of signs for advertising and identifying locations within the community. The City Council also recognizes that unrestricted use of signs can create visual pollution, traffic hazards and general disarray of the community, and for these reasons feels it necessary to limit the use of signs within Tontitown. The Code Enforcement Officer shall order the removal of any sign which, in his opinion, creates any of these problems. The intent and purpose of this section is to control the use of signs in a way that will accommodate the use and protect the public interest and the community.

2. Signs Permitted Within Zoning Districts.

- A. **All Districts.** (1) Those signs excluded from the definition of signs in this ordinance, and (2) any sign used in conjunction with or necessary for a public facility.
- B. **R-1 and RMH Districts.** (1) Real estate and building construction signs not to exceed 32 square feet and 6 feet in height; and (1) Subdivision name signs not to exceed 128 square feet when used as an architectural or landscape feature of the subdivision.
- C. **C Districts.** (1) Real estate and building construction signs not to exceed 32 square feet and 6 feet in height; (2) Business signs attached to and within two feet of any wall housing the business. Such signs shall not protrude above the roof line or beyond any wall surface; and (3) One free standing on-site sign not to exceed 100 square feet and the height limitations of the district. All free standing signs shall be set back at least 20 feet from the curb or edge of paving and shall not obstruct vision of incoming or outgoing traffic.

3. Signs Permitted by Conditional Use.

- A. **Portable Signs.** Portable signs shall be permitted up to 6 months in C districts upon successful appeal to the Planning Commission. Portable signs shall not exceed 6 feet in height or have a sign face area greater than 32 square feet.

SECTION X SPECIAL PROVISIONS

1. Accessory Structures and Uses.

- A. One accessory building may be constructed or placed on a lot containing a residential structure in zones R-1, RMH and R-O but only for the purposes of private auto shelter, residential storage, or home workshop. Portable structures over 120 sq. ft. in area are also governed by these requirements. The structure must:
- 1) Not exceed 400 sq. ft. in area,
 - 2) Be located on the rear two-thirds of the lot, except for an auto shelter which may be even with the front of the residence,
 - 3) Conform to set back requirements of the zone,
 - 4) Not exceed the height of the residential structure,
 - 5) Be painted or built so as to complement the residence.
- B. An accessory structure may, in addition to the above uses, provide shelter for a riding horse on a residential lot with a minimum area of two (2) acres provided:
- 1) The structure is at least 100 feet from adjacent property lines,
 - 2) No more than two horses are kept and sheltered on the property, and
 - 3) Stall area does not exceed 300 square feet.

2. Fences. An ornamental fence, hedge or wall not more than three and one half (3 1/2) feet in height may project into or enclose any required front or side yard. Ornamental fences, hedges or walls may project into the side yard from the front building line of the structure to the rear lot line, provided such fence and walls do not exceed a height of six (6) feet.

3. Flammable Liquids and Gases. Flammable liquids and gasses shall comply with the Arkansas Fire Prevention Code.

4. Height Restrictions. Public, semi-public, or public service buildings, hospitals, institutions, churches and schools, when permitted in a district, may be erected to exceed height limits specified for the district, provided all required yards are increased by one (1) foot for each foot of building height above the height limit specified on the Yard and Area Requirements Table.

5. Home Occupations. An occupation may be carried on in a residential structure in a residential zone only if the following are complied with:

- A. Commercial vehicles may be approved for operation from the residence.
- B. No more than two (2) rooms which are normally considered as living space may be used in the occupation.
- C. Any sign to denote the business, occupation or profession, must not exceed two (2) square feet and such sign must be attached to the structure.
- D. No external display of goods and services is permitted.
- E. The occupation must be carried on only by the occupant family of said residence.

6. Service Station Pumps. Service station pumps and pump islands may occupy the required yards provided, however, that they are not less than fifteen (15) feet from all property lines.

7. Mining, Excavation and Material Storage. Mining, including extraction of clay, gravel or sand; quarrying of rock or stone; earth moving and excavation; depositing of construction material, clay, earth, gravel, minerals, rocks, sand or stone on the ground shall not be construed to be a permitted use in any district unless and until a Conditional Use Permit is issued by the Planning Commission, except for the following defined extractions and deposits:

Excavations for the foundation or basement of any building or for a swimming pool for which a building permit has been issued, or deposits on the ground of any building construction materials to be used in a structure for which a building permit has been issued.

- B. Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than ten (10) feet in vertical height.
- C. Grading in a subdivision which has been approved by the City in accordance with the City's subdivision regulations.
- D. An extractive operation existing and operating as such on the effective date of this ordinance.

The Planning Commission may grant Conditional Use Permits, revocable and valid for specific periods of time to permit mining or extraction from, or deposits on the ground of rock, stone, gravel, sand, earth, minerals, or building or construction materials.

SECTION XI - MOBILE HOMES

All Mobile and Manufactured homes placed within the corporate limits of the City of Tontitown must be approved by the Department of Housing and Urban Development under Title VI of Public Law 93-383, USCS401 et seq. All mobile homes must have the data plate attached to the unit specifying "This mobile home is designed to comply with Federal Mobile Home Construction and Safety Standards in force at the time of manufacture".

1. Individual Mobile Homes. Individual mobile homes shall be allowed in the A Agricultural zone subject to appeal and approval for such use to the Planning Commission and City Council.
2. Mobile Home Subdivisions. Mobile home subdivisions, which shall be established in the RMH Residential zone only, provide an opportunity for mobile home ownership of structure and lot. Mobile home subdivisions shall fully comply with the regulations of this Ordinance and further be governed by the Subdivision Ordinance of the City of Tontitown. Furthermore, individual mobile homes located within a mobile home subdivision must be converted to permanent structures as defined in this Ordinance.
3. Mobile Home Parks. All new mobile home parks that are established or existing mobile home parks which are expanded after the effective date of this Ordinance shall comply with all of the regulations and standards contained in this section. Mobile home parks shall be established only in the RMH Residential zone. Parks shall be established on large, well-drained tracts of land and no parcel of land containing less than two (2) acres shall be used for a mobile home park.
 - A. Development Standards. Mobile home parks shall be developed to provide a desirable residential environment appropriate to the needs and desires of the occupants. Mobile home spaces should be harmoniously and efficiently organized in relation to topography, existing trees and shrubs, and other natural features. A stylized uniform pattern in lining up units should be avoided. The mobile home park shall conform to the following standards or state health department requirements if septic field area requirements are greater:
 - 1) Each mobile home space shall contain not less than 10,000 sq. ft. minimum area. Spaces may be irregular in shape, but each mobile home space shall be not less than 40 feet in width and of adequate shape to provide off-street parking for two (2) automobiles.

The minimum front yard setback shall be twenty-five (25) feet to the front lot line of the mobile home park. Additionally, each mobile home unit shall be set back at least 20 feet from all internal drives and access routes through the mobile home park.

- 3) The minimum distance between mobile homes shall be twenty (20) feet, and under no circumstances shall there be more than one (1) mobile home space developed in any one (1) acre of the mobile home park.
- 4) Mobile home parks must have an area set aside and improved for recreational purposes. All parks shall develop a recreational area equal to eight percent (8%) of the total land area of the park.
- 5) Internal streets and drives shall be designed for safe and convenient access to all mobile home spaces. All such internal drives shall be privately-owned, built and maintained. Such roadways shall be at least twenty (20) feet in width and shall be constructed with a bituminous or concrete surface.
- 6) No building or structure erected or stationed in the mobile home park shall have a height greater than one (1) story or fifteen (15) feet.
- 7) There shall be at least two (2) paved off-street parking spaces for each mobile home space which shall be on the same site or located in grouped parking bays specifically designed for this purpose close to the site served.

B. Approval Procedure

- 1) All licenses and permits as required by the City of Tontitown in this or other applicable Ordinances shall be fully complied with before the park is open to tenants. The owner or developer shall submit a Letter of Intent and the preliminary plans for development of the mobile home park to the Planning Commission for review and approval prior to preparation of a final plat to insure conformity with plans and regulations. The preliminary plans submitted shall include an approval by the Water & Sewer Commission, the Power & Light Company, the Gas Company, and any other utilities or City governmental departments that may become involved in the final development of the site. The mobile home park owner and developer shall submit evidence indicating that he is responsible for the complete cost of the development including site preparation, streets, mobile home spaces, installation of all utilities, driveways, parking areas, park facilities and recreational facilities.
- 2) After review of the Letter of Intent, preliminary plans, and other information submitted by the developer, the Planning Commission may approve these plans if it finds that all appropriate regulations have been complied with. After approval by the Planning Commission, the developer shall cause to be prepared a final plat of the proposed mobile home park lot. This plat shall be prepared by a Registered Professional Engineer in accordance with the Land Subdivision and Development Code of the City of Tontitown. A building permit for construction of the park cannot be issued until a final plat has been approved for the mobile home park site.

4. Manufactured Homes

The establishment, location, and use of manufactured homes as scattered-site single-family residences shall be permitted by conditional use permit in A Agricultural, and R2 Medium Density Residential districts, but shall be allowed by right in RMH zoning districts - subject to all requirements and limitations applying generally to such residential use in each of the respective districts, and provided such homes shall meet all of the following requirements and limitations:

The home must be a double section or larger multi-section unit and shall meet all requirements as defined in Article X and must possess all necessary building and occupancy permits and other certifications required by the City for a dwelling unit;

- B. The home must be appropriately sited on the lot, with the front of the home oriented to the front of the lot, and all required setbacks (front, side and rear) of the zoning district in which the home is located must be met without any exceptions or variances;
- C. The home shall be attached and anchored to a permanent foundation in conformance with manufacturer's installation specifications;
- D. The home shall be covered¹ with an exterior material customarily used on site-built residential dwellings, and such material shall extend over the top of the foundation unless said foundation is constructed of solid brick, stone or masonry material;
- E. The home shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake, asphalt or tile, which shall be installed onto a surface appropriately pitched for the materials used.

SECTION XII ADMINISTRATION AND ENFORCEMENT

1. Administrative Official. This ordinance shall be administered by the Code Enforcement Officer designated by the City Council and assisted as provided by the City Council. The Code Enforcement Officer shall see that the ordinance is enforced through proper legal channels. Appeals from decisions of the Code Enforcement Officer shall be made to the Board of Adjustment. The Code Enforcement Officer is empowered to carry out and conduct activities essential to the proper administration and enforcement of this ordinance including, but not limited to, the following:

- A. **Permits.** To issue Building Permits and Certificates of Occupancy when such applications are in compliance with this ordinance. To refuse such applications and written notice with reasons when not in compliance with this ordinance.
- B. **Collections.** To collect fees for building permits, variances, appeals, amendments, and special permits in accordance with this ordinance.
- C. **Records.** To make and keep all records necessary including records of issuance and denial of all building permits and certificates of occupancy, receipt of complaints of violations of this ordinance and action taken and to file these records in the City Clerk's office.
- D. **Inspections.** To inspect any building or land to determine whether any violation of these regulations have been committed.
- E. **Enforcement.** To enforce these regulations and take all necessary steps to remedy any condition found in violation. The City of Tontitown may enjoin any individual or property owner who is in violation of this ordinance to prevent or correct such violation. Any individual aggrieved by a violation of this ordinance may request an injunction against any individual or property owner in violation of this ordinance or may mandamus any official to enforce the provisions of this ordinance.
- F. **Advisements.** To keep the Mayor, City Council, Planning Commission, and Board of Adjustment advised of all matters, other than routine, which relate to the administration and enforcement of these regulations.

2. Building Permits. It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until the Building Inspector has issued a building permit for such work. No permit shall be issued unless the proposed construction or use is in full conformity with this ordinance and other applicable building laws, ordinances

and regulations. Applications for building permits shall contain the owners name and address, the builders name and address, the address of the construction, the total square footage of construction and the total estimated cost for materials and labor. The permit application shall have on it, or be accompanied by, a plan drawn to scale and including the size of the lot, setback lines and easements, the location of the building on the lot and any other information required by the Building Inspector to adequately describe the work intended. Building permits shall expire six (6) months from the date of issue unless work is in progress.

3. Certificate of Occupancy and Compliance. No building hereinafter erected or structurally altered shall be used, occupied, or changed in use until a Certificate of Occupancy and Compliance is issued by the Building Inspector, stating that the building or proposed use complies with all applicable building laws and the provisions of this ordinance. A record of all certificates shall be kept by the Code Enforcement Officer. A Certificate of Occupancy and Compliance may be revoked by the Code Enforcement Officer when it is found that the building or land does not conform to the use or condition, if any, in the certificate. Each day a use continues after a certificate is revoked constitutes a separate offense and shall be punished as provided herein.

4. Penalty for Violation. Any individual, group or corporation who violates any provisions of this ordinance or fails to comply thereafter with any of the requirements thereof, or who builds or alters any building in a violation of any detailed statement of submitted and approved plans hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars (\$100.00). Each day a violation is allowed to exist shall constitute a separate offense. 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, and any architect, builder, contractor, agent, engineer, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as provided above.

5. Amendments. Two types of amendments to this Zoning Ordinance are recognized, a revision in textual provisions of the ordinance and a change in zoning district boundaries.

A. Amendment to Text. The City Council or the Planning Commission may initiate an amendment to the text of the Zoning Ordinance. The Planning Commission shall review any amendments initiated by either body and shall conduct a public hearing on the proposed textual amendment in accordance with the Notice and Hearing and Approval procedures below.

- 1) When a favorable vote is cast, following the public hearing, a recommendation shall be submitted to the City Council for adoption by ordinance.
- 2) In the event of an unfavorable vote, the Planning Commission shall not make a recommendation to the City Council.

B. Change in District Boundary. The City Council, a property owner or the Planning Commission itself can initiate a change in a zoning district boundary by submitting a petition for rezoning to the Planning Commission. When a change is being proposed by the Planning Commission or City Council, the owner or owners of the property under consideration shall be invited to the Planning Commission meeting prior to official submission to inform them of the proposed changes and solicit their views. All petitions shall contain:

- 1) Owners name and address,
- 2) Legal description of the property to be rezoned,
- 3) Laymans description of the property with street address or other common location reference known to the general public,
- 4) Existing and proposed zoning classification,
- 5) A scaled drawing of the property with proposed zoning boundary, nearest public street and adjacent property owners and
- 6) Reason for request with explanation of surrounding land uses.

Notice. The Planning Commission must conduct a public hearing on any petition for changing district boundaries before it can be considered for adoption by the City Council. A notice of the public hearing shall be published in a newspaper of general circulation in the City of Tontitown at least one (1) time fifteen (15) days prior to the hearing. Fifteen (15) days prior to the hearing, the City Clerk shall have a sign, which contains a copy of the notice and petition in a clear weather proof container stating the day, date, time and place for the hearing, placed in a conspicuous place in the street right-of-way to the property. The city shall provide the sign which shall be at least four (4) feet square and have the words "REZONING PETITION ON THIS PROPERTY" in black letters two (2) inches high at the top of a white sign. A letter or hand delivered notice shall also be sent, fifteen (15) days prior to the hearing, to each adjacent property owner including property owners across streets and alleys.

7. Hearing and Approval. If all procedural requirements above are satisfied, the Planning Commission and City Council shall proceed as follows:

- A. The Planning Commission shall conduct the public hearing on the proposed amendment to the Ordinance or Official Zoning Map.
- B. Following the public hearing, the proposal may be approved as submitted or as modified by a majority vote of the Planning Commission to recommend adoption by the City Council.
- C. If the Planning Commission disapproves the proposal, within fifteen (15) days of the decision a letter shall be sent to the applicant stating the reasons for disapproval. No further action is taken by the Planning Commission or the City Council when a petition is disapproved.
- D. A petitioner may appeal a Planning Commission disapproval to the City Council by a written request to the City Clerk. The appeal must be made within fifteen (15) days of the disapproval and must state why the Planning Commission's decision is believed to be in error.
- E. The City Council may adopt, by ordinance, or reject a recommended amendment by a majority vote or may return the proposal to the Planning Commission for further study and recommendation.
- F. The City Council may also adopt, by ordinance, a recommended or appealed proposal with any modifications considered appropriate by a majority vote.
- G. The Planning Commission shall not reconsider any application for zoning amendment until twelve (12) months have elapsed from the final date of disapproval unless a motion to reconsider passes by at least a seventy five percent (75%) vote of the full Planning Commission. If such a motion is approved, the minutes shall reflect the reasons for reconsideration.

8. Fees. All applications for zoning changes must be accompanied by a deposit of a handling and processing fee of seventy five dollars (\$75.00) with the City Clerk before any action on the petition can be initiated. This fee shall not be refundable regardless of approval or denial.

SECTION XIII - BOARD OF ADJUSTMENT

1. Creation and Appointment A Board of Adjustment is hereby created which shall constitute the Planning Commission as a whole. Their terms shall run concurrently with their appointment to the Planning Commission. On the effective date of this ordinance, the members of the Planning Commission that was legally in existence immediately prior to such date shall be constituted as members of the Board of Adjustment.

- A. Officers.** A chairman and vice-chairman shall be elected annually by the Board from among its membership. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings, shall decide all points of order or procedure, and as necessary, shall administer oath and compel the attendance of witnesses.
- B. Rules and Meetings.** Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Ordinance. Meetings shall be held on a regular schedule and at such other times as the Board may determine. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact, it shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the City Clerk. The concurring vote of a two-thirds majority of the total Board members shall be necessary to revise any order or decision of the enforcement officer or to decide on any matter upon which it is required to pass under this Ordinance.

2. Powers and Duties The Board of Adjustment shall have all the powers and duties prescribed by law and by this Ordinance, which are more particularly described as follows:

- A. Administrative Review.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this Zoning Ordinance. The Board may affirm or reverse, in whole or in part, said decision of the administrative official.
- B. Variances.** To authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Adjustment unless and until:
 - 1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.
 - 2) No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
 - 3) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

- 4) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 5) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.
- 6) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.

C. **Special Exceptions.** In addition to the powers and duties specified above, the Board shall also have the following powers and duties to hold public hearings and decide the following special exceptions:

- 1) Permit the extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this Ordinance.
- 2) Interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.
- 3) Vary the parking regulations by not more than fifty percent (50%) where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this Ordinance.
- 4) Permit a change in use or occupancy of a non-conforming use, provided the use is within the same or more restricted classification as the original non-conforming use.

3. Procedure for Appeals

- A. **Application.** Appeals to the Board may be taken by any person aggrieved or by any officer, department, or board of the City affected by any decision of the administrative official. All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board within ten (10) days after the decision has been rendered by the administrative official.
- B. **Public Hearing and Notice.** The Board shall fix a reasonable time for the public hearing of an appeal, give public notice of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Said public notice shall be published at least once not less than seven (7) days preceding the date of such hearing in a newspaper of general circulation in the City. The public notice shall give the particular location of the property on which the appeal is requested, as well as a brief statement of what the appeal consists. At a public hearing any party may appear in person, by agent, or by attorney.
- C. **Effect of Appeal.** An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board, that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application, and notice to the person from whom the appeal was taken.

Time Limit on Permits. No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period.

- E. Fee.** The fee for any appeal or application to the Board shall be \$35.00, which shall not be refundable unless the appeal is based upon interpretation and the appellant wins - in which instance the fee is refundable. Each month all fees, collected by the Administrative Official during the preceding month, shall be deposited with the City Clerk.
- F. Appeals from Board of Adjustment.** Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

SECTION XIV AMENDMENTS

1. City Council Amendment

The City Council may from time to time amend this ordinance on its own motion, on petition from a property owner, or on recommendation by the Planning Commission. Amendments will go through the following procedure:

- A.** The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least on time fifteen (15) days prior to the hearing. The Planning Commission shall also notify the adjoining property owners of proposed amendment by mail fifteen (15) days prior to the meeting.
- B.** Following the public hearing, the proposed amendment may be recommended as presented or in modified form by a majority vote of the entire Planning Commission.
- C.** Following its adoption of a recommendation, the Planning Commission shall certify such recommended amendment to the City Council for its adoption.
- D.** The City Council may return the proposed amendment to the Planning Commission for further study or recertification, or by a majority vote of the entire membership, may by ordinance adopt the recommended amendment submitted by the Planning Commission. However, nothing in this ordinance shall be construed to limit the City Council's authority to recall the said amending ordinance by a vote of a majority of the City Council.
- E.** Following adoption by the City Council, the adopted amending ordinance shall be filed in the office of the City Clerk.

- 2. Fee.** Before any action shall be taken as provided in this section, any private party or parties proposing a change in the zoning regulations or district boundaries shall deposit with the City Treasurer the sum of twenty-five dollars (\$25.00) to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be adopted by the City Council.

SECTION XV SEVERABILITY

If any paragraph, sentence or clause of this ordinance shall be declared invalid by a court of competent jurisdiction, such determination of invalidity shall not affect the remaining portion of this ordinance.

SECTION XVI REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances of the City of Tontitown in conflict with this ordinance are hereby rescinded.

SECTION XVII EFFECTIVE DATE

1. It has been found and is hereby declared by the City Council of the City of Tontitown, Arkansas, in regular session assembled, that this ordinance is immediately required in order to lessen congestion in the Streets; to secure safety from fire and other dangers to promote healthful living conditions; to provide adequate light and air; to prevent the over-crowding of land and undue concentration of population to stabilize property values and to insure the orderly development of the community for the general welfare of the citizens.
2. Therefore an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from the date of its approval.

PASSED AND APPROVED This 2nd DAY OF Sept. 1994.

Freddie C. Zaldo
MAYOR

ATTEST:

Francis Frasco
CITY CLERK AND RECORDER