ORDINANCE NO. 2006-08-265

ADOPTING A NEW ZONING ORDINANCE

WHEREAS, in order to insure orderly and appropriate growth and development, the City of Tontitown has undertaken an exhaustive effort to prepare a new zoning ordinance, consisting of a new text and a new map; and

WHEREAS, after due notice as required by law, the Tontitown Planning Commission has heard all persons desiring to be heard regarding a new zoning ordinance; and

WHEREAS, all comments, views, suggestions and recommendations were taken into consideration, and an approval recommendation has been made to the City Council by the Planning Commission; and

WHEREAS, it is the desire of the City Council that a new zoning ordinance be adopted, with the text to replace existing Chapter 153 of the Tontitown Code of Ordinances, and with the official zoning map to be kept on file in the Office of the Recorder-Treasurer.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS:

SECTION 1. That a new zoning ordinance, consisting of a text, which follows (see Section 2), and is to be codified as Chapter 153 of the Tontitown Code of Ordinances, and a zoning map, which is attached hereto, is hereby adopted.

SECTION 2. That Chapter 153 of the Tontitown Code of Ordinances is hereby amended to read as follows:

CHAPTER 153. ZONING

DIVISION 1. PREAMBLE

Sec. 153-011. Title. This article shall constitute the zoning regulations of the City of Tontitown. It may be cited as the "zoning ordinance" or the "zoning code," and consists of the text, which follows, as well the zoning district boundary map, entitled "Official Zoning Map of the City of Tontitown, Arkansas," which is to be kept on file in the Office of the Recorder-Treasurer.

Sec. 153-012. Authority. These regulations are adopted pursuant to authority granted by the Arkansas General Assembly in Title 14, Chapter 56, Subchapter 4 of the Arkansas Code of 1987 Annotated (ACA), as amended.

All membership in the various boards and commissions having authority hereunder, acting prior to the effective date of this article, shall remain in office and serve the remainder of their respective terms.

Sec.153-013. Purpose. The zoning regulations set forth herein are enacted to aid in the implementation of the land use portion of the *City of Tontitown 2005 Comprehensive Land Use Plan*, and to promote, in accordance with present and future needs, the safety, order, convenience, prosperity, and general welfare of the citizens of Tontitown. The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas of the city; for protection of property from blight and undue depreciation; for efficiency and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design and arrangement; and for adequate public utilities and facilities.

Sec. 153-014. Jurisdiction. The provisions of these regulations shall apply to all land, buildings and structures within the corporate limits of Tontitown as they now, or may hereafter exist.

Sec. 153-015. Nature and Application.

(a) For the purposes stated above, the city has been divided into zoning districts in which the regulations contained herein will govern lot coverage; the height, area, bulk, location, and size of buildings; open space; and the uses of land, buildings, and structures. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity, and general welfare. Whenever these requirements are at variance with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards, shall govern; provided however, that the City of Tontitown shall not be responsible for enforcing deed restrictions or restrictive covenants.

(b) No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used or occupied, and no use shall be operated, unless it is in conformity with the

regulations herein prescribed for the district in which such structure or land is located. This provision shall not be construed to affect any lawful uses of land or structures that exist, or for which a lawfully issued permit has been issued, at the effective date of these regulations.

(c) No proposed plat of any new subdivision of land shall hereafter be considered for approval unless the lots within such plat equal or exceed the minimum size and area requirements specified in the applicable zoning district in which the land is located.

(d) No open space required by these regulations for a particular structure or use shall be claimed at the same time as open space for another structure or use.

(e) Dedication to public use of land shall not be a condition for any zoning or conditional use approval.

(f) All structures constructed or occupied in conformance with these regulations shall also conform to all other codes and regulations of the city.

(g) The provisions of these regulations are severable. If any section, paragraph, sentence, or clause shall be declared invalid, the remainder of the regulations shall not be affected.

DIVISION 2. RULES OF CONSTRUCTION AND DEFINITIONS

Sec. 153-021. Rules of Construction. For the purpose of these regulations, the following rules of construction shall apply:

(a) Words, phrases, and terms defined herein shall be given the defined meaning.

(b) Words, phrases, and terms not defined herein but in the building code of the city shall be construed as defined in such code.

(c) Words, phrases, and terms neither defined herein nor in the building code, shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

(d) In case of any difference of meaning or implication between the text and any heading, drawing, table or figure, the text shall control.

(e) The particular shall control the general.

(f) The word "shall" is always mandatory and not discretionary. The word "may" is permissive and not mandatory.

(g) Words used in the present tense include the future tense, and words used in the future tense include the present tense.

(h) Words used in the singular include the plural, and words used in the plural include the singular.

(i) The words "building" and "structure" are synonymous, and include any part thereof.

(j) The word "person" includes individuals, firms, corporations, associations and any other similar entities.

(k) The words "lot," "parcel," "site," "tract," or other unit of ownership are synonymous and may be used interchangeably.

(l) The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.

(m) All public officials, bodies, and agencies to which reference is made are those of the City of Tontitown, unless otherwise indicated.

(n) Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, ordinance, statute, regulation, or document, unless otherwise expressly stated.

(o) Whenever a provision appears requiring the head of a department or another officer or employee to perform an act or duty, that provision shall be construed as authorizing the department head or officer or employee to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

(p) Unless the context clearly suggests the contrary, the conjunction "and" indicates that all connected items, conditions, provisions or events shall apply, and the conjunction "or" indicates that one or more of the connected items, conditions, provisions or events shall apply.

(q) Expiration - Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

Sec. 153-022. Definitions of Terms and Uses. This section contains definitions of general terms used throughout the text. It also contains definitions for the uses identified in the text. The use definitions are intended to be mutually exclusive, which means that uses that are specifically defined shall not also be considered a part of a more general definition of that use. The use "retail/service," for example, does not include the more specific use "convenience store."

Access easement: A right-of-way or parcel of land specified or set aside as the way or means by which a piece of property is approached or entered, given by the owner of land to another party.

Accessory buildings and uses: A subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principal use of land and buildings. Accessory buildings and uses are located on the same lot and in the same zoning district as the principal use.

Adult entertainment: Any adult cabaret, adult theater, adult bookstore, adult massage establishment, model studio, or sexual encounter or meditation center which depicts or describes matters or activities relating to specified sexual activities or specified anatomical areas.

Agriculture, crop: The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products.

Agriculture, animal: The use of any land for the purpose of raising livestock.

Agriculture, product sales: The retail sale of agricultural products produced on the same site.

Alley: A narrow public way, not in excess of twenty (20') feet, which affords a secondary means of access to abutting properties, and not intended for general traffic circulation.

Animal care, general: A use providing animal care, veterinary services or boarding.

Animal care, limited: A use providing small animal (household pet) boarding or veterinary services, with no outside runs.

Apartment: A room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three or more dwelling units are considered apartments.

Area: The amount of land surface in a lot or parcel of land.

As-built drawing: A document showing how a particular building and/or site have been constructed.

Asphalt or concrete plant: An establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphalt cement, cement or concrete products.

Auditorium or stadium: An open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings.

Auto wrecking or salvage yard: A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition, or for the sale of parts there from; or for the collecting, storage, and salvage of waste paper, scrap metal, or other discard material.

Bank or financial institution: Establishments engaged in deposit banking; typically, commercial banks, savings and loans, and credit unions.

Basic industry: The first operation or operations that transform a material from its raw state to a form suitable for fabrication.

Bed and breakfast: The use of an owner-occupied or manager-occupied residential structure to provide temporary lodging, or lodging and meals, with no more than twelve (12) guest rooms.

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.

Building coverage: The land area covered by all buildings on a lot, excluding eaves.

Building height: The vertical distance from grade plane to the average height of the highest roof surface.

Building lines: The lines that are parallel to the front, side, or rear lot lines of a lot at a distance equal to the minimum setback requirements, and beyond which the vertical wall of a building or structure shall not be located closer to said lot lines.

Building, principal: A building in which is conducted the principal use of the plot on which it is situated. In any residential district, any structure containing a dwelling unit shall be deemed to be the principal building on the plot on which the same is situated.

Carport: Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls.

Cemetery: Land used, or intended to be used, for burial of the dead, whether human or animal, including a mausoleum, columbarium or cinerarium.

Certificate of occupancy: Permission to occupy a building and/or property.

Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, including day cares, is maintained and controlled by a religious body organized to sustain public worship.

Club or lodge: An association of persons for the promotion of some nonprofit common purpose, such as charity, literature, science, politics, fellowship, etc., meeting periodically, and limited to members.

College or university: An institution of higher education offering undergraduate or graduate degrees.

Comprehensive plan: The City of Tontitown 2005 Comprehensive Land Use Plan.

Construction sales and service: An establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, and construction and trade contractor storage yards.

Convenience store: An establishment, not exceeding three thousand five hundred (3,500) square feet of gross floor area, serving a limited market area, and engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use, and which may specifically include a car wash as an accessory use.

Country club: A chartered, nonprofit membership club catering primarily to its membership, providing one or more of the following social and recreational activities: golf, tennis, swimming, riding, or outdoor recreation. Such clubs typically include dining facilities, clubhouses, locker rooms, and pro shops.

Day care, general (day care center): A commercial establishment where adult day care services are provided, or where child day care services are provided for more than eight (8) children; with both such services to be provided pursuant to state laws and fire codes, and in accordance with, and licensed by appropriate state agencies.

Day care, limited (day care family home): A home where day care services are provided to a maximum of eight (8) children, with a maximum of two (2) adults in attendance. The operator shall reside in the structure, and the facility must conform to all codes and regulations, both state and local, applicable thereto, with the most restrictive regulations prevailing. The babysitting of not more than four (4) children shall not be subject to provisions of these regulations.

Detached structure: A structure having no party or common wall with another structure except an accessory structure.

Development: The act of changing the state of a tract of land after its function has been purposefully changed by man; including, but not limited to, structures on the land and alterations to the land. Development does not include:

(a) lawn and yard care, including mowing, gardening, tree care, and maintenance of landscaped areas;

(b) removal of trees or vegetation damaged by natural forces; or

(c) the repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover.

Development or site plan: A dimensioned presentation of the proposed development of a specified parcel of land that reflects thereon the location of buildings, easements, parking arrangements, public access, and other similar and pertinent features.

District, zoning: Any portion or section of the city within which uniform zoning regulations apply.

Drive-in establishments: A facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

Dwelling: A building or portion thereof which is designed or used as living quarters for one or more families; but not including motels, boardinghouses, tourist homes, convalescent homes, travel trailers, manufactured homes, or manufactured housing.

Dwelling, attached: A dwelling that is joined to another dwelling at one (1) or more sides by a wall or walls.

Dwelling, detached: A dwelling that is entirely surrounded by open space on the same lot.

Dwelling, multi-family: A dwelling designed for or occupied by three (3) or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

Dwelling, single-family: A dwelling designed for or occupied by one family only, and being on a permanent foundation. A single-family dwelling may not have more than two adults residing in the dwelling per established bedroom and may include minor children.

Dwelling, two-family (duplex): A dwelling designed for or occupied by not more than two (2) families living independently of each other.

Dwelling, townhouse or row house: Two (2) 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 owned by one family.

Dwelling, zero lot line: A single detached dwelling unit that is constructed on a side property line of said lot; such that the wall located on the side property line should be "blank" with no openings of any type allowed.

Dwelling unit: A room or group of rooms located within a dwelling and forming a single habitable unit with facilities for living, sanitation, sleeping, and cooking.

Efficiency unit: A dwelling unit that contains living, sanitation, sleeping, and cooking

facilities, but not a separate bedroom for sleeping, for not more than two (2) adults.

Emergency housing unit: A manufactured housing unit or residential-design manufactured housing unit that is located on the same lot as a principal single-family dwelling to be used solely for the purpose of providing temporary accommodations for a family member in need of daily assistance due to health reasons. Such reasons shall be certified by a licensed physician.

Family: One or more persons related by blood, marriage or adoption, or a group of not more than five (5) unrelated persons living together and subsisting in common as a single, non-profit housekeeping unit utilizing only one kitchen. A family may include domestic servants employed by said family. A single family dwelling may not have more than two adults residing in the dwelling per established bedroom and may include minor children.

Farm: A parcel of land used for the growing or raising of agricultural products including related structures thereon.

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

Floodplain regulations: Provisions of the City of Tontitown Flood Damage Prevention Code.

Floor Area, Gross: The floor area within the inside perimeter of the exterior walls of the building under consideration, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Floor Area, Net: The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

Freight terminal: A building or area in which freight, brought by motor trucks or rail, is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

Frontage: That edge of a lot bordering a street.

Garage, private: An accessory building or a part of a main building used for storage purposes only for automobiles, vans, pick-up trucks and the like, used solely by the occupants and their guests of the building to which it is accessory.

Golf course: A facility providing private or public golf recreation services and support facilities, excluding miniature golf facilities.

Government services: Buildings or facilities owned or operated by government entities and providing services for the public, excluding utilities and recreational services. Typical uses

include administrative offices of government agencies and utility billing offices.

Greenhouse or nursery: An establishment primarily engaged in the raising and retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.

Group residential: The use of a site for occupancy by groups of more than five (5) persons, not defined as a family. Typical uses include residence halls, and boarding or lodging houses.

Hazardous waste: Any solid, liquid, semisolid, or gaseous waste, whether alone or in combination, whether used, reused or reclaimed, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality, or an increase in serious irreversible, or incapacitating reversible, illness, or which may pose a substantial present or potential hazard to human health or the environment.

Home occupation: Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, which is conducted entirely within the main building, and which meets all other applicable standards and use limitations as described herein.

Hospital: An institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training and research facilities, central service facilities, pharmacies, and staff offices which are an integral part of the facilities.

Hotel or motel: An establishment where overnight accommodations are supplied for transient guests. Typical accessory uses include dining, swimming, and meeting facilities.

Kennel: The use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both, or the keeping of more than five (5) dogs and cats. The word "selling" as herein used shall not be construed to include the sale of animals three (3) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over three (3) months old by persons not operating a kennel as herein described.

Library: A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

Lot: Land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory building, and the open spaces and parking spaces required herein, and having its principal frontage upon a street

Lot, area: The total horizontal area of a lot lying within the lot lines.

Lot, corner: A lot abutting two (2) or more streets at their intersection.

Lot, double frontage: A lot that is an interior lot extending from one street to another and abutting a street on two (2) ends.

Lot, interior: Any lot which is not a corner lot.

Lot lines: The boundary lines of a lot.

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 of record: A lot that is a part of a subdivision, the plat of which has been recorded in the office of the Washington County Circuit Clerk.

Lot width: The width of a lot measured at the front building setback line.

Manufactured housing unit: A detached single-family housing unit fabricated 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. For purposes of these regulations, the term "manufactured housing unit," when used by itself, shall not mean the same as a "residential-design manufactured housing unit."

Manufactured housing unit, residential-design: A manufactured housing unit which has a minimum width of twenty-four feet (24'), with width measured perpendicular to the longest axis at the narrowest part, a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with all of the standards specified herein.

Manufactured housing park: A tract of land in one ownership that is used or intended to be used by two (2) or more manufactured housing units, and which has public sanitary sewer facilities, public water, electricity, and other utilities available.

Manufacturing, general: An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding "basic industry."

Manufacturing, limited: An establishment primarily engaged in the on-site production of goods by hand manufacturing which generally involves only the use of hand tools or other

equipment not exceeding two (2) horsepower, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced on-site.

Medical service: An establishment providing therapeutic, preventative, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other licensed practitioners, as well as the provision of medical testing and analysis services.

Mining or quarrying: The extraction of metallic and nonmetallic minerals, including stone, sand, and gravel operations.

Manufactured home: A transportable, factory-built housing unit, fabricated prior to June 15, 1976, the effective date for the Federal Manfactured Home Construction and Safety Act of 1974.

Nonconforming structure: A structure, or portion thereof, lawfully existing at the time these regulations became effective, or as amended, which does not comply with the setback, height, or other development standards applicable in the district in which the structure is located.

Nonconforming use: Any structure or land lawfully occupied by a use at the time these regulations, or any amendment thereto, became effective, which does not conform to the use or area regulations of the district within which it is located.

Nursing home: Any premises where more than three (3) persons are housed and furnished with meals and continuing nursing services.

Office, general: An establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

Open space, common: The area of land that is designed to be accessible for the use and enjoyment of all owners and/or tenants. This space may contain complementary structures, recreational areas and other such improvements, but shall not include parking lots or streets.

Open space, private: An area of land owned or occupied by a property owner or tenant and available for their private use and enjoyment.

Owner: The property owner of record, according to the office of the Washington County Circuit Clerk.

Parking, commercial: A paved area for off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal use.

Parks and recreation: A park, playground, open space, or facility, open to the general public and reserved for active or passive recreational activities.

Pedestrian way: A separate right-of-way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land to facilitate pedestrian access to adjacent streets and properties.

Principal building: The building on a lot in which the principal use of the lot is conducted.

Principal use: The chief or main recognized use of a structure or of land.

Recreation and entertainment, indoor: An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, and that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, pool halls and video game arcades.

Recreation and entertainment, outdoor: An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, and miniature golf courses.

Recreational vehicle park: The use of a site providing individual spaces for towed or self-propelled camping vehicles on a daily fee or short-term rental basis.

Research service: An establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

Restaurant, fast-food: An establishment where the principal business is the sale of food and non-alcoholic beverages in a ready-to-consume state, and where the design or principal method of operation is that of a fast-food or drive-in-style restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in an automobile.

Restaurant, general: An establishment, other than "fast-food restaurant," where the principal business is the sale of food and beverages in a ready-to-consume state, where there is no service to a customer in an automobile, and where the design or principal method of operation consists of one or more of the following: (1) a sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or (2) a cafeteria or cafeteria-type operation where food and beverages generally are served in non-disposable containers and consumed within the restaurant.

Retail/service: The sale or rental of commonly used goods and merchandise for personal or household use or the provision of services to consumers, excluding those retail and service uses classified more specifically herein. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services:

household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, electronics repair, shoe repair, household appliances, wallpaper, carpeting and floor-covering, art supplies, kitchen utensils, jewelry, drugs, laundromats, dry cleaners, cosmetics, books, antiques, or automotive parts and accessories.

Safety services: A facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

School, elementary, middle, or high: The use of a site for instructional purposes on a primary or secondary level.

Service station: An establishment primarily engaged in the retail sale of gasoline or other motor fuels, that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, or the minor adjustment or minor repair of motor vehicles.

Setback: The distance from the building line to the lot line or the proposed right-of-way line, whichever is nearer.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, a service or a commodity or product, which are visible from any public street or right-of-way and designed to attract attention. A sign shall not include such devices located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city, or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

Sign, bulletin: A sign erected by a church, school, institution, or public agency on its premises for announcements.

Sign, commercial: A sign which directs attention to a service, product, profession, business, or entertainment conducted, sold, or offered on the same lot.

Sign, nameplate: A sign bearing the name and/or address, occupation, and phone number of persons or uses occupying the premises.

Sign, official: Signs on public property for informing the public.

Sign, off-premise: A sign that directs attention to a business, profession, event, entertainment, product, or service that is located, offered or sold somewhere other than on the premises.

Sign, real estate: Temporary signs advertising the premises for lease, rent or sale.

Storage Yards: Outdoor areas used for storage of outdoor construction equipment and materials, salvage, items for retail and wholesale sales, etc. All vehicles stored outside must be currently licensed.

Story: The horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

Use: Any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

Utility, major: Generating plants, electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; or other uses defined herein.

Utility, minor: Services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

Vehicle and equipment sales: An establishment engaged in the retail sale or rental, from the premises, of motorized vehicles, along with incidental service or maintenance. Typical uses include automobile and truck sales, automobile rental, boat sales, and motorcycle sales. These provisions do not apply to machinery used for agriculture purposes.

Vehicle repair, general: An establishment primarily engaged in painting of, or bodywork to, motor vehicles or heavy equipment. Typical uses include paint and body shops.

Vehicle repair, limited: An establishment primarily engaged in automotive repair other than paint and body shops.

Vocational school: A use providing education or training in business, commercial trades, language, arts, or other similar activity or occupational pursuit, and not otherwise defined as a "college or university" or "primary or secondary school."

Warehouse, residential storage (mini-warehouse): An enclosed storage facility containing independent, separate units or cubicles that are intended to be leased to persons exclusively for dead storage of their household goods or personal property. The active utilization of any storage space or cubicle within such a storage area for a retail or wholesale business operation is expressly prohibited.

Warehousing: The storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving

significant movement and storage of products or equipment. Typical uses include truck terminals, major mail distribution centers, frozen food lockers, motor freight terminals, and moving and storage firms, but excluding "residential storage warehouses."

Welding or machine shop: A workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine, welding, and sheet metal shops.

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 right-of-way 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 entranceways.

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.

DIVISION 3. NONCONFORMING STRUCTURES AND USES

Sec. 153-031. Continuance of Use.

(a) Any lawfully established use of a structure or land, on the effective date of these regulations or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.

(b) Any legal nonconforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.

(c) Any structure for which a building permit has been lawfully granted prior to the effective date of these regulations, or of amendments hereto, may be completed in accordance with the approved plans. Such building shall thereafter be deemed a lawfully established building.

Sec. 153-032. Discontinuance of Use.

(a) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of these regulations, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been

originally designed and constructed for the prior nonconforming use.

(b) Whenever a nonconforming use of a structure or part thereof, has been discontinued or abandoned for a period of six months or more such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(c) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) months or more shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.

Sec. 153-033. Change of Use.

(a) The nonconforming use of any structure or portion thereof, may be occupied by a similar or less intense nonconforming use as may be determined by the zoning official, subject to appeal to the board of zoning adjustment. No building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use. All changes of use and or occupancy must comply with all applicable provisions of the building code.

(b) A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of these regulations. If such nonconforming use or portion thereof is discontinued for a period of three (3) months, or changed, any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

Sec. 153-034. Repairs and Alterations.

(a) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted. Such structures may be expanded once, a maximum of twenty-five (25%) percent in gross floor area or expansion of 5,000 square feet, whichever is less.

(b) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconformity.

(c) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

(d) A structure that is nonconforming with respect to yards, height or any other element of bulk regulated by these regulations, shall not be altered or expanded in any manner that would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

Sec. 153-035. Accessories to Primary Nonconforming Uses. Addition of, or enlargement, alteration or relocation of, accessories which are incidental to and accommodate the primary nonconforming use may be permitted if, after notices and public hearing and recommendation by the planning commission, the city council finds that the accessory promotes the public health,

safety, and welfare and does not expand or enlarge the primary nonconforming use.

The procedures for application and review shall be the same as those for a conditional use, with the exception that all notifications must make reference to a request for "alteration, enlargement or relocation of use" instead of a request for a conditional use.

Sec. 153-036. Damage and Destruction. If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by natural disaster, fire, or other casualty, the structure may be repaired or reconstructed and used for the same purpose as it was before the occurrence; provided such repair or reconstruction is commenced within six (6) months and completed within one (1) year of the date of such damage or destruction. Failure to exercise this option within the time specified, shall be considered a voluntary abandonment and the structure may be rebuilt and used thereafter only for a conforming use, and in compliance with provisions of the district in which it is located.

Sec. 153-037. District Changes. Whenever the boundaries of a zoning district are changed, so as to transfer an area from one district to another, the foregoing provisions shall also apply to any newly created nonconforming uses therein.

DIVISION 4. ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

Sec. 153-041. Zoning Districts Established. The following zoning districts, which may be referred to by their abbreviations, are hereby established:

(a) Base Zoning Districts:

A	Agriculture
R-E	Estate Single-Family Residential – two (2) acre minimum lot size
R-1	Single-Family Residential – one (1) acre minimum lot size
R-2	Single-Family Residential – one-half (1/2) acre minimum lot size
R-3	Single-Family Residential – 9,600 square foot minimum lot size; provided density shall not exceed 3 units/net acre (i.e. after dedications are made).
R-M	Multi-Family Residential – 12 units/acre maximum
R-MH	Manufactured Home – 1 unit/acre maximum
C-1	Light Commercial/Office
C-2	General Commercial
I	Industrial

(b) Overlay and Special Purpose Zoning Districts

PUD	Planned Unit Development District

Sec. 153-042. Zoning District Hierarchy. References to less restrictive, more restrictive, less intensive and more intensive zoning districts refer to the base zoning districts established above; and represent a progression from the A district as the most restrictive (or least intensive) base

district to the I district as the least restrictive (or most intensive) base district. Overlay and special purpose districts are not included in the zoning district hierarchy.

Sec. 153-043. Zoning District Boundary Map. The location and boundaries of the zoning districts established herein are defined as shown on a map entitled "Official Zoning Map of the City of Tontitown, Arkansas," which is to be kept on file in the office of the recorder-treasurer. This map, together with all explanatory data thereon, is hereby adopted, and declared to be a part of these regulations. The official zoning map shall be certified as such by signature of the mayor, attested by the recorder-treasurer.

If, in accordance with the provisions of these regulations, changes are made in district boundaries or other data portrayed on the official zoning map, such changes shall be made on said map within thirty (30) days after the amendment has been approved by the city council.

No changes of any nature shall be made on the official zoning map or information shown thereon, except in conformity with the procedures set forth in these regulations. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of these regulations, and punishable pursuant to misdemeanor provisions contained in the city code.

Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map located in the office of the recorder-treasurer shall be the final authority as to the current zoning status of property in the city.

Sec. 153-044. Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the zoning official shall employ the following rules in interpretations thereof. Decisions of the zoning official are subject to appeal to the board of zoning adjustment.

(a) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.

(b) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(c) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(d) Boundaries indicated as following waterways shall be construed to be following the thread of the stream.

(e) Boundaries indicated 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) Where distance is not specifically indicated on the official zoning map, as is typically the case with un-subdivided property, distance shall be determined by the scale of the map.

Sec. 153-045. Classification of Annexed Lands. All lands proposed for annexation shall be assigned zoning district classification(s) that will become effective at the same time the annexation becomes final. The map amendment procedures contained herein shall be followed in assigning said classification(s).

Sec. 153-046. Vacation of Public Rights-of-Ways. Whenever any street, alley, or other public way is vacated or abandoned by action of the city council pursuant to law, the zoning district classification of the property to which the vacated portions of land accrue, shall become the classification of the vacated land.

DIVISION 5. DISTRICT REGULATIONS

Sec. 153-051. Agriculture and Residential Districts.

(a) General Description. Counting the agriculture district, which is considered to be a very low density single-family district, and acts to serve as a "holding" zone for subsequent higher density consideration, there are seven (7) districts designed to meet present and future housing needs; to protect the character of, and property values in, residential areas; to encourage a suitable environment for family life; and to provide choice in density, as well as in type of housing. Five (5) of the districts are for low-density single-family uses, and are intended to be defined and protected from the encroachment of uses not performing a function necessary to the low density, residential environment. One (1) district is intended for medium-density single-family uses, and one (1) exists for multi-family residential uses. More specific descriptions of the residential districts are as follows.

(1) A, Agriculture District. The purpose of this district is to provide for a very low density single-family district, while helping preserve existing agricultural resources, and to guide the conversion of these lands to higher density residential use when appropriate. Agricultural areas should be protected for development by appropriate standards until they are well served by public facilities and services that will permit higher density residential development.

(2) R-E, Estate Single-Family District. The purpose of this district is to accommodate single-family residential development on low density, large estate type lots. This zone is intended to help establish and preserve rural/estate character in certain areas of the city.

(3) R-1, Single-Family Residential. The purpose of this district is to accommodate single-family residential uses on generously sized residential lots of at least one (1) acre. This zone is generally applied on the fringe of built-up areas of the city, and may act as a buffer to R-E zones.

(4) R-2, Single-Family Residential. This district is intended to provide single-family residential uses on moderately sized, low-density lots of at least one-half (1/2) acre. This is the smallest lot size that will be considered low density.

(5) R-3, Single-Family Residential. This district is characterized by single-family residential development on medium-sized lots of at least 9,600 square feet, with density not exceeding 3 units/net acre, i.e. after dedications are made. As with other residential zones, this district also serves as a buffer in providing for a step-down in intensity from higher to lower density residential and other types of development. It is the intent and desire of the city that R-3 zoned areas, which typically have smaller sized lots, be served by municipal water and sanitary sewer service.

(6) R-MH, Single Family Residential. This district is to provide for replacement of manufactured home on individually owned lots. Areas so classified must have all municipal services available. A maximum density in this district is 1 unit per acre.

(7) R-M, Multi-Family Residential. This district is to provide for multi-family development, and is characterized by traditional apartment-type units in attached living complexes. Congregate housing for the elderly is also anticipated in this zone. Areas so classified must have all municipal services available. The maximum density in this district is twelve (12) dwelling units to the acre.

(b) Uses Permitted. Uses permitted in the residential districts are set forth in the following table. Where the letter "P" appears opposite a listed use and underneath a residential district, the use is permitted in that district "by right" subject to: (1) providing off-street parking and loading facilities as required by Section 153-101; (2) providing landscaping and screening as provided by Section 153-103; and (3), conformance with special conditions applying to certain uses as set forth in Division 8. Only one (1) principal structure per lot shall be permitted in R-E, R-1, R-2, and R-3 single-family districts. In addition to the accessory uses provided for in Division 7, an accessory structure may be permitted for sheltering a riding horse on a residentially zoned lot or parcel 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 (2) horses are kept and sheltered on the property; and (3) The stall area does not exceed 450 square feet. In A districts, only one (1) principal dwelling structure per lot shall be permitted.

Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in Sections 153-061 thru 153-064. Where neither "P" nor "C" appears, and "NP" appears in the table, the use is not permitted.

USE TABLE

RESIDENTIAL DISTRICTS

	ZONING DISTRICTS						
	A	R-E	R-1	R-2	R-3	R-M	R-MH
RESIDENTIAL USES							
Single-family detached	P	P	P	P	P	P	NP
Single-family attached	NP	NP	NP	NP	NP	P	NP
Duplex, triplex, 4-plex	NP	NP	NP	NP	NP	P	NP
Emergency housing unit	C	C	C	C	NP	NP	NP
Multi-family	NP	NP	NP	NP	NP	P	NP
Manufactured housing unit	NP	NP	NP	NP	NP	P	P
Manuf. housing, residential design	NP	NP	NP	NP	NP	P	P
Manufactured housing park	NP	NP	NP	NP	NP	C	C
Group residential	NP	NP	NP	NP	NP	C	NP
CIVIC AND COMMERCIAL USES							
Airport or airstrip	C	C	NP	NP	NP	NP	NP
Animal care, general	C	NP	NP	NP	NP	NP	NP
Animal care, limited	C	NP	NP	NP	NP	NP	NP
Automated teller machine	NP	NP	NP	NP	NP	P	NP
Bed and breakfast	C	C	C	NP	NP	NP	NP
Cemetery	C	C	C	C	C	C	NP
Church	P	C	C	C	C	P	C
College or university	C	NP	NP	NP	NP	P	NP
Communication tower	C	C	C	C	C	C	NP
Convenience store	NP	NP	NP	NP	NP	C	NP
Day care, limited (family home)	C	NP	C	C	C	P	NP
Day care, general	NP	NP	NP	NP	NP	C	NP

USE TABLE (CONTINUED)

RESIDENTIAL DISTRICTS

ZONING DISTRICTS

	A	R-E	R-1	R-2	R-3	R-M	R-MH
CIVIC AND COMMERCIAL USES							
Golf course	C	C	C	C	C	P	NP
Government service	C	C	C	C	C	C	NP
Hospital	NP	NP	NP	NP	NP	C	NP
Library	C	C	C	C	C	P	NP
Medical services	NP	NP	NP	NP	NP	C	NP
Museum	NP	NP	NP	NP	NP	C	NP
Nursing home	NP	NP	NP	NP	NP	C	NP
Parks and recreation	P	C	C	C	C	P	NP
Post office	NP	NP	NP	NP	NP	C	NP
Recreation/entertainment, indoor	C	NP	NP	NP	NP	NP	NP
Recreation/entertainment, outdoor	C	NP	NP	NP	NP	NP	NP
Safety services	C	C	C	C	C	P	NP
School, elementary/middle & high	C	C	C	C	C	P	NP
Utility, major	C	C	C	C	C	C	NP
Utility, minor	P	P	P	P	P	P	NP
Vocational school	C	NP	NP	NP	NP	C	NP
MANUFACTURING & EXTRACTIVE USES							
Asphalt or concrete plant	C	NP	NP	NP	NP	NP	NP
Mining or quarrying	C	NP	NP	NP	NP	NP	NP
Sod farm	C	NP	NP	NP	NP	NP	NP
Topsoil	C	NP	NP	NP	NP	NP	NP
AGRICULTURAL USES							
Agriculture, animal	P*	C	C	C	C	C	NP
Agriculture, crop	P	P	P	P	C	C	NP
Agriculture, product sales	P	C	C	C	C	C	NP

* All concentrated feedlot operations for livestock shall be subject to conditional use approval.

ACCESSORY USES: PERMITTED SUBJECT TO PROVISIONS OF DIVISION 7.

(c) Lot, yard, and height regulations. Except as otherwise provided herein, no lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements in the following table; nor shall any building or structure 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 said table. A listing of supplements and exceptions to these regulations follows the table.

MINIMUM DIMENSION REQUIREMENTS
RESIDENTIAL DISTRICTS

	ZONING DISTRICTS						
DIMENSION	**A**	**R-E**	**R-1**	**R-2**	**R-3**	**R-M**	**R-MH**
Lot size							
Single-family (sq. ft.)	5 ac	2 ac	1 ac	½ ac	9,600	10,000	10,000
Duplex (sq. ft.)	NP	NP	NP	NP	NP	12,000	NP
Nonresidential uses (sq. ft.)	5 ac	2 ac	1 ac	½ ac	9,600	12,000	NP
Multi-family (units/acre)	NP	NP	NP	NP	NP	12	NP
Lot width (all uses)	240'	200'	120'	100'	80'	100'	100'
Lot depth (all uses)	400'	200'	120'	120'	120'	100'	100'
Front setback (all uses)	30'	30'	30'	25'	25'	25'	25'
Side setback (all uses)	15'	15'	10'	10'	7'	7'	7'
Street side setback (all uses)	25'	25'	25'	25'	25'	25'	25'
Rear setback (all uses)	30'	30'	20'	20'	20'	20'	20'
NP = not permitted							

Note: All references to lot size and coverage are in net square feet

(1) Maximum lot coverage (all buildings) shall not exceed thirty-five percent (35%) in A, R-E, R-1, and R-2 zones; and forty percent (40%) in all other residential zones.

(2) When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining area is at least seventy-five percent (75%) of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.

(3) Utility facilities, using land or an unoccupied building requiring less than one thousand (1,000) square feet of site area, are exempt from minimum lot size requirements of all districts.

(4) Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of these regulations. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.

(5) Certain architectural features may project into required yards as follows:

(a) Cornices, canopies, eaves, or other architectural features, may project a distance not to exceed thirty inches (30").

(b) Fire escapes may project a distance not exceeding four and one-half feet from the exterior wall of the building.

(c) An uncovered stair and necessary landings may project a distance not to exceed three feet (3'), provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet (3') in height.

(d) Bay windows, balconies, and chimneys may project a distance not exceeding thirty inches (30"), provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

(6) When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least seventy-five percent (75%) of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.

(7) Setback averaging. When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street, and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications; provided that in no case shall more than six (6) lots on either side of the subject property be included in the calculation.

(8) When adjacent to R-E, R-1, R-2, R-3, or R-MH districts, multi-family residential and nonresidential structures over one (1) story or fifteen feet (15') in height shall have an additional eight foot (8') side and rear setback for every additional story or fifteen feet (15') in building height.

(9) Single family attached uses shall be exempt from interior side setback requirements, provided that end units within a single-family attached development shall comply with applicable side setback requirements. Such uses may also be exempted from lot width requirements.

(10) In R-M districts, and other districts in which such developments may be permitted, dwelling units within a zero lot line development may be placed on or near one interior side lot line, and therefore be exempt from that interior side setback requirement. Zero lot line setbacks may not be used on street side lot lines or on interior side lot lines adjacent to lots that are not part of the zero lot line development. Zero lot line houses shall be subject to applicable fire codes and the following additional standards:

(a) The minimum distance between all buildings in the development must be equal to twice the required side setback required by the underlying zoning district. A deed restriction must be recorded on the deed of each applicable lot to insure continued compliance with this setback.

(b) An easement to allow for maintenance or repair is required when the eaves or sidewall of a house are within four feet (4') of the adjacent property line. The easement on the adjacent property must provide at least five feet (5') of unobstructed space between the furthermost projection of the structure, and be wide enough to allow five feet (5') between the eaves or side wall and the edge of the easement.

(c) If the sidewall of the house is on the property line, or within three feet (3') of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed.

(11) Maximum height limitation is thirty-five feet (35') in all residential zones with the exception of the A and R-M districts, where the limitation is forty-five feet (45'). Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval.

Sec. 153-052. Commercial Districts.

(a) General description, commercial districts. Commercial districts are principally intended for the provision of services and the conduct of business and retail trade essential to support residents within the city and the surrounding area. Two (2) such districts are established herein to provide for the diversity of uses and appropriate locations required for the range of goods and services needed in Tontitown.

(1) C-1, Light Commercial/Office District. This district is intended to accommodate administrative, executive, and professional offices and associated uses, as well as limited retail trade and services designed to serve adjacent residential neighborhoods, usually of a high or medium density character. Such districts should generally be limited to collector or arterial street locations, or other carefully selected areas. Buildings are to be of residential character regarding outward appearance.

(2) C-2, General Commercial District. This purpose of this district is to provide appropriate locations for commercial and retail uses that are convenient and serve the needs of the public. This district also provides locations for limited amounts of merchandise, equipment, and material being offered for retail sale that are more suitable for storage and display outside the confines of an enclosed structure. Appropriate locations for this district are generally along heavily traveled arterial streets, where convenient access and high visibility exist. However, development of groupings of facilities shall be encouraged in the future, as opposed to less desirable strip commercial, such as that that exists along U.S. 412.

Sec. 153-053. I, Industrial District. The industrial zoning district is intended to provide for the development of light to medium intensity industrial uses and their related facilities. Certain commercial and other complementary uses are also permitted. Appropriate standards for the district are designed to assure compatibility with other similar uses and to minimize any conflicts with non-industrial uses located in close proximity to industrial uses. Suitable uses in this district include freight terminals, warehousing, wholesaling, packaging, storage, storage yards, fabrication, display and such limited manufacturing as does not create a nuisance for residential and commercial neighbors. Adequate and suitable transportation facilities are a necessity to this district. Industrial uses must be screened from more restrictive uses.

Sec. 153-054. Commercial and Industrial Uses Permitted. Uses permitted in the foregoing districts are set forth in the following table. Where the letter "P" appears opposite a listed use and underneath a district, the use is permitted in that district "by right" subject to: (1) providing off-street parking and loading facilities as required by Section 153-101; (2) providing landscaping and screening as required by Section 153-103;and (3), conformance with special conditions applying to certain uses as set forth in Division 8. Commercial uses must be screened from more restrictive uses.

Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in Sections 153-061 thru 153-064. Where neither "P" nor "C" appears within the table, and "NP" appears, the use is not permitted.

USE TABLE
COMMERCIAL & INDUSTRIAL DISTRICTS

	ZONING DISTRICT		
	C-1	C-2	I
RESIDENTIAL USES			
Single-family detached	P	C	C
Single-family attached	P	C	NP
Duplex, triplex, 4-plex	P	P	C
Loft apartment	NP	C	NP
Multi-family	C	C	C
CIVIC AND COMMERCIAL USES			
Airport or airstrip	NP	NP	C
Animal care, general	C	P	C
Animal care, limited	P	P	NP
Auditorium or stadium	NP	C	C
Automated teller machine	P	P	P
Bank or financial institution	P	P	P
Bed and breakfast	P	P	NP
Car wash	C	P	P
Cemetery	P	P	P
Church	P	P	P
College or university	P	P	P
Communication tower	C	C	P
Construction sales and service	NP	P	P
Convenience store	P	P	C
Day care, limited (family home)	P	P	C
Day care, general	P	P	C

USE TABLE (CONTINUED)
COMMERCIAL & INDUSTRIAL DISTRICTS

	ZONING DISTRICTS		
CIVIC AND COMMERCIAL USES	C-1	C-2	I
Entertainment, adult	NP	C	C
Funeral home	C	P	NP
Golf course	P	P	NP
Government service	P	P	P
Hospital	P	P	NP
Hotel or motel	NP	P	NP
Library	P	P	P
Medical service/office	P	P	P
Museum	P	P	C
Nursing home	P	P	NP
Office, general	P	P	C
Parking lot, commercial	NP	P	C
Parks and recreation	P	P	C
Pawn shops	NP	P	C
Post office	C	P	C
Recreation/entertainment, indoor	C	P	C
Recreation/entertainment, outdoor	C	P	C
Recreational vehicle park	NP	P	P
Restaurant, fast-food	C	P	P
Restaurant, general	P	P	P
Retail/service	C	P	C
Safety services	P	P	P

USE TABLE (CONTINUED)
COMMERCIAL & INDUSTRIAL DISTRICTS

	ZONING DISTRICTS		
	C-1	C-2	I
CIVIC AND COMMERCIAL USES			
School, elementary/middle & high	P	P	P
Service station	C	P	P
Signs	*	*	*
Utility, major	C	C	C
Utility, minor	P	P	P
Vehicle and equipment sales	NP	P	P
Vehicle repair, general	NP	P	P
Vehicle repair, limited	C	P	P
Vocational school	C	P	P
Warehouse, residential (mini) storage	NP	C	P
INDUSTRIAL, MANUFACTURING & EXTRACTIVE USES			
Asphalt or concrete plant	NP	NP	C
Auto wrecking or salvage yard	NP	NP	C
Basic industry	NP	NP	P
Freight terminal	NP	C	P
Manufacturing, general	NP	NP	P
Manufacturing, limited	NP	NP	P
Mining or quarrying	NP	NP	C
Research services	C	C	P
Warehousing	NP	NP	P
Welding or machine shop	NP	C	P

* The placement of all signs shall be in accordance with the city code.

USE TABLE (CONTINUED)
COMMERCIAL & INDUSTRIAL DISTRICTS

	ZONING DISTRICTS		
	C-1	C-2	I
AGRICULTURAL USES			
Agriculture, animal	NP	C	P
Agriculture, crop	P	P	P
Agriculture, farmers market	C	P	P
Agriculture, product sales	NP	C	P

ACCESSORY USES: PERMITTED SUBJECT TO PROVISIONS OF DIVISION 7.

Sec. 153-055. Nonresidential Lot, Yard, and Height Regulations. No lot or yard shall be established or reduced in dimension or area in any nonresidential district that does not meet the minimum requirements in the table that follows; nor shall any building or structure 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 said table. A listing of supplements and exceptions to these regulations follows the table.

MINIMUM DIMENSION REQUIREMENTS
NONRESIDENTIAL DISTRICTS

	ZONING DISTRICTS		
DIMENSION	C-1	C-2	I
Minimum lot size			
Single-family (sq. ft.)	12,000	12,000	12,000
Duplex (sq. ft.)	12,000	12,000	NP
Multi-family (units/acre)	12/ac	12/ac	12/ac
Nonresidential uses (sq. ft.)	12,000	12,000	12,000
Minimum lot width (all uses)	100'	100'	100'
Minimum lot depth (all uses)	100'	100'	100'
Front setback			
Residential uses	25'	25'	100'
Nonresidential uses	25'	25'	100'
Street side setback (all)	25'	25'	25'
Interior side setback			
Residential uses	10'	10'	25'
Nonresidential uses	10'	10'	25'
Rear setback			
Residential uses	25'	25'	25'
Nonresidential uses	20'	20'	25'
Maximum height	35'	35'	45'
Maximum lot coverage (all uses)	60%	60%	60%
Maximum floor area (sq. ft.)	NS	NS	NS

NP = Not Permitted
NS = No Standard

(a) Size reduced for public purpose. When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining area is at least seventy-five percent (75%) of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.

(b) Utility exemption. Utility facilities, using land or an unoccupied building requiring less than one thousand (1,000) square feet of site area, are exempt from minimum lot size requirements.

(c) Setback reduced for public purpose. When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least seventy-five percent (75%) of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.

(d) Setback averaging. When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications, and in no case shall more than six (6) lots on either side of the subject property be included in the calculation.

(e) Setbacks increased by height. When adjacent to single-family districts, multi-family residential and nonresidential structures over one (1) story or fifteen feet (15') in height shall have an additional eight foot (8') side and rear setback for every additional story or fifteen feet (15') in building height.

(f) Maximum height exclusions. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flag poles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with the other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval, if such use is not a use permitted by right.

(g) When a nonresidential zone abuts a residential zone, setbacks for both shall be the greater of the nonresidential district or the setback for the abutting residential zone.

Sec. 153-056. Overlay and Special Purpose Districts. The purpose of overlay and special purpose districts is to provide for enhanced standards to protect and enhance the unique characteristics of specific areas and/or corridors, such as natural scenic beauty or manmade features, while providing for development opportunities. Examples of such purposes include: Promoting the safe and efficient use of specific roadways by controlling access and other traffic measures; Encouraging the redevelopment of an area consistent with a particular design theme; Giving special attention to landscaping, buffering, signage, lighting and building setbacks in

those districts identified as needing special attention; Giving special attention to the existing architectural style or to the style which is planned, so as to create an easily identifiable area in those areas identified as architecturally or historically significant.

The city council, upon recommendation from the planning commission, may adopt overlay and special purpose districts as the needs are identified in order to implement specific purposes, intents, and design standards generally consistent with the *City of Tontitown 2005 Comprehensive Land Use Plan* provisions for the area being regulated, which shall be applied as additional standards to other city regulations. The development criteria for each district shall be those standards as set out in each respective district that is adopted. Such districts shall be made a part of the zoning regulations through the standard amendment procedures; and upon adoption, the boundaries of such districts, shall be delineated on the official zoning map.

Sec. 153-057. *This Section Reserved.

Sec. 153-058. Planned Unit Development (PUD) District.

(a) General Description. It is the intent of this section to encourage development with superior living environments brought about through unified development, and to provide for the application of design ingenuity in such developments, while protecting existing and future surrounding areas in achieving the goals of the comprehensive plan for development of the city. The PUD provisions herein established, are intended to provide for greater flexibility in the design of buildings, yards, courts, circulation and open space than would otherwise be possible through the strict application of other district regulations, and to produce:

(1) A maximum choice in the type of environment and living units available to the public;

(2) Open space and recreation areas;

(3) A pattern of development which preserves natural features, prevents soil erosion, and protects water quality;

(4) A creative approach to the use of land and related physical development;

(5) An efficient use of land resulting in smaller networks of utilities and streets, and thereby lowering costs; and

(6) An environment of stable character in harmony with surrounding development.

The PUD regulations are designed to provide for small- and large-scale developments incorporating a single type or a variety of residential, commercial, and related uses that are planned and developed as a unit. Such development may consist of individual lots or it may have common building sites. Private or public common land and open space should be an essential and major element of the plan that is related to and affects the long-term value of the homes and

other development. A planned unit shall be a separate entity with a distinct character and be in harmony with surrounding development.

(b) Standards of Development.

(1) Ownership Control. The land in a planned unit development district (PUD) shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the project can be successfully completed.

(2) Minimum District Area. The minimum area for a PUD district shall be two (2) acres. In calculating the minimum area for a PUD district, the measurements shall include the area of all dedicated streets entirely within the boundary of the proposed PUD, and one-half of the area of all boundary or perimeter streets.

(3) Uses Permitted. In order to increase creativity and flexibility in the development of areas suitable for a planned unit development, there are no specifically prescribed uses that are permitted within the boundaries of a planned unit development. The developer shall be responsible for preparation of a list of permitted uses within the specific planned unit development requested. The development list shall take into account the nature and purpose of the PUD area, and such uses and locations shall be appropriate in order to protect and be in harmony with surrounding development.

At the time of the pre-application plan and conference, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PUD district. At the time of zoning application and consideration of the preliminary plat, a specific written list of uses to be "permitted by right" shall be submitted for review by the planning commission. If approved by the planning commission and city council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy.

In addition to the above permitted uses that are established by right, certain other uses may be prescribed by the developer in accordance with the restrictions included herein and said uses are designated as conditional uses. These uses more intensely dominate the area in which they are located than do other uses which might be permitted in the PUD district and, as such, they require special considerations and restrictions. If the developer and /or planning commission agree that certain conditional uses should be included within the PUD district, the applicant shall precisely indicate the specific use, its location, area to be included, maximum building square footage, and such other information as required by the planning commission to properly and comprehensively evaluate the nature and impact of such conditional uses. When such conditional uses are approved at the time of rezoning, they shall not be subsequently changed to any other use until and unless they are changed to another use that is permitted by right, or the new proposed use if not permitted by right in a PUD district, is resubmitted for rezoning approval.

(4) Parking and Off-Street Loading. All uses established with a planned unit development district shall comply with the off-street parking and loading requirements as established in the city's zoning regulations. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located, or upon adjacent property which is under the control of a property owners' association, to which said lot is an automatic participant. In no case, however, shall the cumulative requirements of all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the city.

(5) Perimeter Requirements. In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the planning commission shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.

(6) Residential Density Standards. The maximum number of dwelling units permitted within a PUD district is dependent upon both the type and number of each type of residential units intended to be included in the PUD district. Densities within certain areas of the PUD may be beyond the overall limits through a transfer of density. However, overall project densities shall not be exceeded in accordance with the following schedule:

(a) Eight (8) dwelling units per net residential acre for single-family attached and detached houses and duplexes.

(b) Fifteen (15) dwelling units per net residential acre for triplexes, fourplexes, and row or terrace housing.

(c) Eighteen (18) dwelling units per net residential acre for two story, and twenty-seven (27) units per net residential acre for three story apartments.

(d) Forty (40) dwelling units per net residential acre for high-rise (four stories or more) apartments.

For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-ways, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one property owners' association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.

(7) Open Space Requirements. Common open space constitutes an essential ingredient in a planned unit development and is one of the most basic and important design elements. Open space should be distributed more or less equitably throughout the PUD district in relationship to the dwelling units and other use areas that are intended to be served by the common open space. Adequate guarantees must be provided that the common open space areas as contained in the plan for the PUD district are preserved and maintained for those purposes only. A minimum of twenty percent (20%) of the total project area shall be devoted to lawn and/or green space, exclusive of paved surfaces. A property owners' association shall be required, if other arrangements satisfactory to the planning commission have not been made, for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the articles of incorporation and bylaws of the property owners' association shall be reviewed and approved by the planning commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas.

(c) Procedures For Obtaining PUD Zoning. A three-step review procedure is required for obtaining PUD zoning and final approval of the final plan and plat. The first step involves a pre-application plan and conference which is designed to provide information to the city of the developer's intention with respect to the nature and scope of the proposed PUD district, and to allow the developer to be informed of the city's regulations and policies concerning development alternatives for the area. The second step involves submission of a formal application for rezoning of the area to a PUD district and simultaneous submission of a preliminary plat in accordance with the city's subdivision regulations. The last step involves submission of the final development plan and plat for approval and recording prior to commencing building construction. These steps are outlined as follows with respect to the procedure followed and submission requirements at each step:

(1) Pre-application Plan and Conference.

(a) Procedure.

(1) A pre-application plan shall be submitted to the planning commission for review of the area and proposed uses relative to the compatibility of a planned unit development project with existing development in the surrounding area and the comprehensive development plan of the city.

(2) Each applicant shall confer with the zoning official and interested Department heads in connection with the preparation of the planned unit development application. It shall be the responsibility of the zoning official to contact and invite interested department heads and other parties to a joint meeting. The general outlines of the proposal, evidenced schematically by the pre-application plan and such other information as may be desired, are to be considered before submission of the planned unit

development application.

(3) Upon review of the site plan and general area, and following completion of the pre-application conference, the zoning official shall furnish the applicant with written comments regarding the conference, including appropriate recommendations to inform and assist the applicant prior to preparing the components of the planned unit development application.

(b) Submission Requirements. At the time of requesting a pre-application conference, the applicant shall submit a scaled site plan and such other narrative or graphic information the applicant deems pertinent to the city's initial review and evaluation of the potential of the PUD district proposed. The pre-application plan shall include the following:

(1) Boundaries of the property involved;

(2) Existing zoning of the area and zoning of adjoining properties;

(3) Existing roadways, easements, and waterways;

(4) Indication of availability of all utilities;

(5) General plan of development at a level of detail sufficient to indicate to the city the nature and scope of the project as to its magnitude in terms of approximate number and types of dwelling units; location and extent of nonresidential elements; proposed locations of major open space areas; and circulation and access.

(2) Zoning Application and Preliminary Plat. After receiving written comments following the pre-application conference, the applicant may proceed in preparing a formal application for a planned unit development to the planning commission. The application shall consist of a simultaneous submission of a preliminary plat and a rezoning application. The preliminary plat shall conform to all requirements contained in the subdivision regulations with the exception of certain design requirements regarding lots, setbacks, etc., that are specifically exempted or modified by provisions of this chapter. The rezoning application shall be processed following the procedure for map amendments.

(a) Submission Requirements. The applicant shall simultaneously submit both a preliminary plat and a rezoning application. To form the basis for the rezoning application, a preliminary site plan shall be submitted and it shall include at least the following information:

(1) Proposed title of the project and name of any engineer, architect, land

planner, land surveyor, landscape architect, or company responsible for various elements of the plan.

(2) North point, graphic scale, and date.

(3) Boundaries of the properties involved, all existing easements, section lines and property lines, existing streets, existing buildings, watercourses, waterways or lakes, and other existing physical features in and adjoining the property.

(4) Location and sizes of sanitary and storm sewers, water mains, culverts and other underground structures in and adjacent to the project.

(5) Topography of the project area with appropriate contour intervals.

(6) General land use development plan of the area indicating the location of different land uses, dwellings by types and numbers, areas designated for commercial uses and other nonresidential uses, and areas proposed for open space and recreational use. For all residential areas, the site plan shall clearly indicate the type and number of dwellings to be located per parcel, lot or block in accordance with the preliminary plat. For all commercial or other nonresidential uses, the areas shall clearly be indicated in accordance with lots, parcels, or blocks and each such parcel shall indicate the type of building proposed, number of stories, and gross square footage to be included on each parcel. The boundaries of all open space areas shall be clearly indicated along with the form of proposed ownership, that is, by property owners' association or public park or other legal entity, and in such case where more than one property owners' association is being created, documentation shall be clearly submitted as to which areas will have automatic membership into said associations. This requirement, however, shall not be interpreted as requiring a detailed site development plan that includes the exact boundaries and locations of all structures proposed for construction.

(7) All setback lines for all properties shall be shown.

(8) If the project is to be developed in more than one phase, the boundaries of each proposed phase shall be clearly indicated on the site plan map.

(9) Calculations shall be submitted of the total number of gross acres in the project, and the acres and percentage thereof, proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, streets, parks, schools, and other reservations.

(10) Tabulation of the total number of dwelling units by various types in

the project, and the total number of net residential acres within the project. The tabulations shall so indicate conformance of the proposed project, or each phase within the project, to the residential density standards for the PUD district.

(3) Final Plan and Plat. Upon approval of the rezoning request by the city council, the applicant may proceed with the preparation of the final plan and plat. The final plat shall meet all applicable requirements of the city's subdivision regulations and shall be processed in accordance with those regulations. The applicant shall submit a written and graphic description of any modifications made to the final plan from the approved preliminary plan. If it is determined that no changes have been made from the preliminary plan, or if only minor plan changes have been made in accordance with the definition provided herein below, then the review by the planning commission may proceed and the plat may be submitted to the planning commission for approval. If approved, the plat shall be filed in the office of the Washington County Circuit Clerk.

(d) Amendments. Amendments may be required either to the preliminary site plan, or the final development plan. The procedure governing the disposition of amendments shall be as follows:

(1) Amendments to Preliminary Plan. At the time a final plan is submitted for review, it shall be determined whether or not any amendments have been made to the approved preliminary plan. If amendments have been made, then a determination shall be required as to whether or not said amendments constitute a major or minor plan change. Modifications from the previously approved preliminary plan shall be deemed to be minor plan changes if any and all modifications by the applicant of the plan do not:

(a) Vary the total number of dwelling units by more than five percent (5%);

(b) Involve a reduction of the area set aside for common open space or the substantial relocation of such area or areas;

(c) Increase by more than five percent (5%) the total floor area proposed for any nonresidential use; and

(d) Does not substantially change the location of any nonresidential areas as shown on the preliminary plan.

Additionally, modifications in the location or design of minor streets, cul-de-sacs, alleys, or facilities for water and for disposal of storm water and sanitary sewage shall not be considered as major modifications. All other changes in the planned unit development, including changes in the site plan and development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development.

(2) Amendments to Final Development Plan. The final development plan as submitted

and approved may be amended in accordance with the following procedure. Minor changes may be authorized by the zoning official, in such cases where changes are required by engineering or other circumstances not foreseen at the time the final development plan was approved. No change authorized by the zoning official under this section, however, may either increase the total area devoted to any and all nonresidential uses, or decrease the amount of area devoted to common open space, or increase the total number of dwelling units located on any lot, block, or parcel as approved in the final development plan. Notwithstanding any of these conditions, the zoning official may not permit changes beyond the minimum or maximum requirements set forth in these regulations. All other changes in the planned unit development, including changes in the site plan or the development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development.

(e) Administration and Enforcement.

(1) Review Standards. The planning commission shall investigate and ascertain that the plans for a planned unit development meet the following conditions:

(a) That the tract of land for the entire project comprises not less than two (2) acres.

(b) That the project is in conformity with the requirements and standards of development of the planned unit development district and is consistent with the intent and purpose of this section.

(c) That the proposed project constitutes an environment of sustained desirability and stability, and that it is in harmony with the character of the surrounding neighborhood, and is not inconsistent with the city's comprehensive plan.

(d) That the property adjacent to the proposed development will not be adversely affected.

(2) Recorded Plat and Plot Plan Required. The proposed development shall follow all applicable procedures, standards, regulations, and laws governing the subdivision of land. No building permit for any structure shall be issued until a final plat of the proposed development, or part thereof, is approved and recorded and an approved plot plan is submitted in accordance with these regulations.

(3) Phasing and Development Schedule. The applicant shall clearly indicate on the site plan map, the boundaries of each proposed phase. If the sequence of construction of various portions of the development is to occur in phases or stages, then the open space and/or recreational facilities should be developed or committed thereto in proportion to the number of dwelling units intended to be developed during any given stage of construction.

Additionally, the applicant shall submit a schedule of construction for the project, or for each phase within the project, indicating the sequence of development according to residential

type and other nonresidential construction within the project. Upon adoption of the schedule of construction, the building inspector shall be responsible for enforcing this schedule. If the building inspector determines that the rate of construction of residential units or nonresidential structures differs from the construction schedule, he shall so notify the developer in writing. Thereafter, the building inspector may issue such orders to a developer as necessary to correct said schedule, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or nonresidential structures until compliance is achieved.

(4) Guarantee of Completion. Before approval of the final development plan, the planning commission shall require a contract with safeguards satisfactory to the commission guaranteeing completion of the development plan for any single phase in a period to be specified by the commission, but which period shall not exceed five (5) years unless extended by the commission.

(5) Causes for Revocation. The planning commission may recommend to the city council that any previous planned unit development approval be revoked, and all building permits be voided under the following circumstances:

(a) If the applicant has not submitted a final development plan to the city within one (1) year of preliminary plan approval. Where an optional staged development plan is utilized, the affected portion of the approved preliminary plan may be revoked in its entirety or to the extent of that portion on which a final development plat has not been submitted and approved.

(b) If no building permit has been issued within one (1) year from the recording date of the final development plan map, or initial plan of a staged, final development plan and the applicant has not been granted an extension.

(c) If the applicant does not adhere to the phased development schedule as stated in the approved preliminary development plan.

If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final development plan map are proceeding at a substantially slower rate than other project components. From time to time, the planning commission shall compare the actual development accomplished with the approved development schedule. If the commission finds that the rate of construction of dwelling units or other structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the planning commission may initiate revocation action or cease to approve any additional final development plans/plats if preceding phases have not been finalized. The city may also issue a stop work order or discontinue issuance of building permits, or revoke those previously issued.

DIVISION 6. CONDITIONAL USES

Sec. 153-061. Nature and Description. Certain uses may or may not be appropriately located within various districts due to their unusual or unique characteristics of operation and external

effects. Given their unusual character, analysis and judgment of the consequences of each development and use must be given so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. Such uses are listed under the various districts herein as "conditional uses," and may be located in the district or districts so designated only in accordance with the procedure described herein.

Sec. 153-062. Development Standards and Review Guidelines. All development shall be designed in such a way as to minimize any potential negative impact on the surrounding area. Special attention shall be given to buffering commercial developments from adjacent single-family areas. Design of the internal traffic circulation system, ingress and egress, off-street parking, loading and pedestrian ways shall be sensitive to such conditions as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, and the proper relationship of different land uses. Landscaped areas shall be provided to protect water quality, and reduce erosion, heat and glare. Such areas shall be maintained in an attractive condition. Existing trees on a development site shall be retained where possible. Screening, open space, or other buffer may be required to give adequate separation between uses which are marginally compatible, and shall also be provided for the beautification and enhancement of the property.

In carrying out the purpose of this section, the following development standards and design specifics shall be subject to review and approval. The appropriateness of these standards shall be determined for each specific conditional use location.

(a) The proposed use is within the provision of "conditional uses," as set out in these regulations.

(b) The proposed use conforms to all applicable provisions herein set out for the district in which it is to be located.

(c) The proposed use is so designated, located, and proposed to be operated, that the public health, safety and welfare will be protected.

(d) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.

(e) The size and shape of the site, including the size, shape and arrangement of proposed structures, as well as signage related thereto, is in keeping with the intent of these regulations.

(f) The proposed ingress and egress, internal circulation system, location and amount of off street parking, loading and pedestrian ways are sufficiently adequate, and not inconsistent with requirements of these regulations.

(g) The proposed landscaping and screening of the proposed use are in accordance with provisions of these regulations.

(h) Safeguards proposed to limit noxious or offensive emissions, including lighting, noise, glare, dust and odor are addressed.

Sec. 153-063. Procedure for Authorizing. The following procedure is established to integrate properly, the conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

(a) Application. An application shall be made by the property owner and filed with the zoning official, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the city council to defray processing costs. The application shall be accompanied by a graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision-making. Such may include, but is not limited to: preliminary site plans showing proposed uses and structures; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and landscaping; lighting and signage; a preliminary plan for provision of sanitation and drainage facilities; and proximity of adjacent uses and buildings.

Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting to the truth and correctness of all facts and information presented with the application.

The filing deadline for inclusion on the planning commission agenda shall be the 20th day of the month preceding the first planning commission meeting for the subsequent month. Should the 20th fall on a weekend or holiday, the next following workday shall be the filing deadline.

(b) Notice. Upon determining that an application is proper and complete, the zoning official shall insure that the matter is set for public hearing before the planning commission. The zoning official shall be responsible for insuring that, pursuant to law, at least fifteen (15) days notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the city.

The applicant shall present evidence to the zoning official, at least ten (10) days prior to the required public hearing, that all property owners within two hundred feet (200') of the boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified.

(c) Planning Commission Review and Action. The planning commission shall review conditional use permit applications at it regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the commission may approve the application as presented, approve it with conditions, table it with cause for not to

exceed one (1) month, deny the application, or refer it to the city council for final disposition. Approval shall require an affirmative vote of a majority of the authorized membership of the commission.

In approving such conditional uses, the planning commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be insured to the maximum extent practicable. If the planning commission disapproves or denies a conditional use application, the reasons for such action shall be given to the applicant with fifteen (15) days from the date of the decision. If denied, no application for such use or similar use shall be permitted involving part of the same property for a period of six (6) months.

The planning commission shall have final authority except that petitioners or record objectors aggrieved by an action, including any condition(s) placed upon application approval, by the commission shall file appeals to the city council with the recorder-treasurer. The content of the appeal filing shall consist of: (1) A cover letter addressed to the mayor and city council setting forth the request; and (2) a copy of the planning commission application indicating the action and properly executed by the staff. This filing shall occur within fifteen (15) calendar days of the action by the planning commission. Certified mail notice of the appeal hearing shall be provided not less than ten (10) days prior to the date of the hearing, and the affidavit and other supporting evidence of notice shall be filed not less than five (5) days prior to the date of review. This notice shall be given to all record parties in interest whether for or against the request. The cost of this notice shall be borne by the appellant.

In no case shall the planning commission or city council authorize reduction from minimum requirements of these regulations relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the planning commission or city council shall be subsequently considered in connection with a variance request to the board of zoning adjustment.

Sec. 153-064. Effect of Approval. No building permit shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use, or operation of all land and structures within the site shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly altered, or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.

Substantial work or construction under a conditional use permit must be commenced within one (1) year, or the permit shall terminate. Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the planning commission, which may extend it for an unlimited period or for an additional period of years.

Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the applicant or his successors or assigns. Failure to do so shall constitute a violation of these regulations, and cause for revocation of the conditional use authorization.

Provided sufficient site information is submitted with the approved development plan, the planning commission may waive otherwise mandated site plan review requirements.

DIVISION 7. ACCESSORY USES

Sec. 153-071. General Description. An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principal use of land and buildings, site-built architecturally compatible with the principal structure, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

Sec. 153-072. Location Requirements and Standards. An accessory building shall not be located within a required street (front or street side) setback; shall be subject to the side setback standards of the underlying zoning district; shall be set back at least 10' from a rear lot line; shall not be located within any public easement or over any known utilities or septic system lines; and shall not occupy more than ten percent (10%) of the lot area, or more of the lot than is covered by the principal use, whichever results in less lot coverage. Accessory buildings, in all zones except "A" zones, shall not exceed the floor area of the principal use. Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks.

An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building, and shall comply in all respects with the requirements applicable to the principal building. Provided detached, open-sided carports may be located in the side yard, no closer to the front lot line than the front building line of the principal building, and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least ten feet (10') from any other structure or as provided in the building code whichever is more restrictive.

With regard to height limitations, accessory structures in residential districts shall not exceed the height of the primary structure, measured from the eave; and in commercial and industrial districts, such structures shall not exceed twenty-five feet (25') in height or the height of the principal structure on the lot.

Sec. 153-073. Residential Accessory Uses. Residential accessory uses shall include the following accessory uses, activities, facilities, and structures: fences and walls; garages, carports,

and off-street parking and loading areas; gardens; gates and guard houses; home occupations (subject to limitations and requirements of (b) below); playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving antennas; recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental, and subordinate to the principal use on the lot.

A nameplate sign, that is, a sign bearing the name and/or address, occupation, and communication number of a person or use occupying the premises, shall be permitted as a residential accessory use. Such sign shall be unanimated and non-illuminated, not over two (2) square feet in area, and placed flat against a wall or door of the principal building. In addition, a real estate sign, that is, a temporary sign advertising the premises for lease, rent, or sale, is also permitted as an accessory use. Such sign shall be unanimated and non-illuminated, shall not exceed six and one-fourth (6 ¼) square feet in area, and shall not be placed on public right-of-way.

(a) Home Occupations Permitted. A home occupation shall be allowed as an accessory use in residential districts subject to compliance with the following requirements, which are intended to balance protection of residential character, with enabling residents to work from home:

(1) The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner. A nameplate sign, as described above, shall be permitted.

(2) The work done in the home office or business creates no objectionable odor, noticeable vibration, or offensive noise that increases a level of ambient sound at the property lines.

(3) The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.

(4) The home office or business does not cause interference with radio or television reception in the vicinity.

(5) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.

(6) The home office or business sells no articles on the premises that are not produced on the premises.

(7) A home occupation shall be carried on wholly within the principle residential structure. No home occupations shall be allowed in accessory buildings or garages.

(8) The home office or business occupies no more than ten percent (10%) of the total floor area of the residence.

(9) There shall be no external alteration of the dwelling, nor storage of supplies or

equipment outside.

(10) Not more than one (1) truck of not more than one and one-half (1 ½) ton capacity and no semi-trailers, incidental to the home occupation, shall be kept on the premises, except as allowed by conditional use.

(11) Customers may visit the site only during the hours of 8 am to 8 pm, and no more than six (6) customers or clients may visit the site in any single day.

(12) Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.

(c) Home Occupations Prohibited. Prohibited home occupations include, but are not limited to the following:

(1) Barber and beauty shops.

(2) Dispatch centers, where workers come to the site to be dispatched to other locations.

(3) Commercial stables, kennels, and animal boarding and care facilities.

(4) Assembly or repair of large appliances.

(5) Repair or assembly of vehicles or equipment with internal combustion engines, or any other work related to motor vehicles and their parts.

(d) Garage Sales. Garage sales, also commonly called rummage or yard sales, are permitted as accessory uses provided they meet the following requirements:

(1) Each such sale shall be registered in writing or by telephone with the zoning official.

(2) Each property address and/or person shall be limited to no more than four (4) such sales per year.

(3) Sales shall not last longer than two (2) consecutive days.

(4) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(5) No goods purchased for resale may be offered for sale.

(6) No consignment goods may be offered for sale.

(7) Directional and advertising signs, not larger than four (4) square feet, shall be free-

standing--that is, they shall not be placed on traffic or official signs, utility poles or trees, and shall be removed promptly after completion of the sale.

Sec. 153-074. Nonresidential Accessory Uses. Nonresidential accessory uses are allowed only in association with permitted, nonresidential principal uses and shall include, but not be limited to, the accessory uses, activities, facilities, and structures enumerated below. Such uses shall not be allowed if such would cause or increase parking nonconformity for the principal use. Such use may also necessitate additional required parking because of its own nature or character. Accessory uses shall not occupy required parking areas, or off-street parking areas (spaces or isles) approved as part of a site plan. Nonresidential accessory uses include:

(1) Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients, or visitors to the principal use.

(2) Dwelling units, other than manfactured homes, when used or intended to be used for security or maintenance personnel.

(3) Guard houses, gates, fences and walls.

(4) Offices for allowed business and industrial uses when the office is located on the same site as the principal use.

(5) Parking garages, and off-street parking and loading facilities.

(6) Radio and television receiving antennas.

(7) Restaurants, newsstands, gift shops, swimming pools, tennis courts, workout rooms, club and lounges when in a permitted hotel, motel or office building.

(8) Sale of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use.

(9) The storage of merchandise when located within the same building as the principal business.

(10) On-premise commercial, bulletin, nameplate, and real estate signs, provided such are non-flashing.

(11) Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

DIVISION 8. SPECIAL CONDITIONS APPLICABLE TO CERTAIN USES

Sec. 153-081. General. Uses permitted, or those permitted subject to conditional use approval, shall be subject to the requirements of the district provisions as supplemented or modified by this

chapter.

Sec. 153-082. Adult Entertainment. All adult entertainment uses shall be subject to the following standards:

(1) Separation From Other Adult Entertainment Uses. The building housing an adult entertainment use shall not be located within two thousand six hundred forty feet (2,640') of any other adult entertainment use. This 2,640' area shall be defined by a radius of 2,640' measured from the exterior wall of the subject building.

(2) Separation From Other Uses. The building housing an adult entertainment use shall be located at least one thousand three-hundred and twenty feet (1,320') from the following uses: church; library; day care center; elementary, middle or high school; and single-family, duplex or multi-family residential uses. This distance shall be defined by a radius of one thousand three hundred and twenty feet (1,320'), measured from the exterior wall of the subject building.

(3) Prohibited Activities. An adult entertainment use shall not be conducted in any manner that provides the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," from any public right-of-way. This provision shall apply to any and all displays, decorations or show windows.

Sec. 153-083. Wrecker Service. A wrecker service is a business enterprise from which wrecker vehicles are dispatched to tow or haul inoperable or wrecked motor vehicles, and may or may not include the temporary storage, for a period not to exceed thirty (30) days, of such vehicles. All temporary storage of said wrecked or inoperable motor vehicles shall be screened entirely within an enclosed opaque fence or wall, except driveway areas, from eight (8) feet in height, and containing no advertising thereon. Temporary storage between the street and such fence, or on street right-of-way, is expressly prohibited. A period of eighteen (18) months from the effective date of these regulations shall be allowed for existing uses to comply with these screening requirements. After this period, those not in compliance shall be deemed in violation.

Sec. 153-084. Wrecking, Salvage, and Junkyards. Because of the nature and character of their operations, motor vehicle wrecking and salvage yards, junkyards, and similar uses of land can have a serious detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance. For the purpose of evaluating whether the proposed utilization of land for a vehicular wrecking or junkyard properly minimizes its objectionable characteristics, the standards established below shall be used.

(1) Location. Because of the tendency of salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred feet (300') to any residential district.

(2) Screening. The interior area of any existing salvage or wrecking operation shall be

screened from view by fencing, not to exceed eight feet (8') in height, within eighteen (18) months after the effective date of these regulations, and wrecking yards shall be so screened as a condition of approval. Such screening shall be uniform, consistent, and neat in appearance, and shall be properly maintained during the life of the use. No advertising, with the exception of one (1) identification sign not exceeding twelve (12) square feet, shall be placed on said screening. Storage between the street and such screening is expressly prohibited, as is the stacking of such vehicles above or beyond such screening.

Sec. 153-085. Car Washes. Car washes and similar such establishments shall provide paved parking for at least five (5) vehicles, plus fifty feet (50') of stacking space for vehicles. Where any such use is located on a lot abutting a residential district, and where any part shall be built along such line, any entrance or exit shall be by way of a major street. Wastewater from such establishments shall not be allowed to run into the street or storm sewer; rather, such discharge of wastewater shall be into a sanitary sewer.

Sec. 153-086. Emergency Housing Units. Emergency housing units may be approved as conditional uses in A, R-E, R-1, R-2 and R-3 districts, for the purpose of providing temporary accommodations for persons in need of daily assistance due to health reasons. The following regulations shall apply to emergency housing units:

(1) Hardship. Before approving a conditional use for an emergency housing unit, the planning commission shall determine that the applicant has a special need to provide temporary, nearby living quarters for a relative who needs daily assistance due to health reasons. The applicant shall provide proof of such hardship, evidenced by a letter from a physician or other appropriate professional. The commission shall also determine that allowing an emergency housing unit would alleviate a social, economic or physical hardship for the resident of the principal dwelling or the resident of the emergency unit. Consideration of the effect on adjoining property shall also be factored into the commission's decision. A permit granted for such purposes shall expire no later than one (1) year from the date of approval. The commission may approve a one-time extension of up to one (1) year of this period if the applicant applies for such extension within the original one year time period.

(2) Unit Type. Only manufactured housing units may be approved for emergency placement.

(3) Removal. Upon expiration of a conditional use permit for an emergency housing unit, the unit shall be promptly vacated, and within ninety (90) days of permit expiration, be removed from the premises.

Sec. 153-087. Floodplain Development. The designated floodplain area is inclusive of all land within the city subject to inundation by floodwater. The source of this delineation shall be the Federal Emergency Management Agency's scientific and engineering report entitled: "The Flood Insurance Study for Washington County, Arkansas and Incorporated Areas," including the flood

insurance rate maps for the City of Tontitown.

The uses of and/or development of land within the designated floodplain area shall be only those uses and structures permitted in the specific district regulations for the zone in which the proposed use and/or development is to be located. For the purposes of administration and review of applications for the use and/or development of land within designated floodplain areas, the City of Tontitown's Flood Damage Prevention Code is deemed the governing regulations.

Sec. 153-088. Manufactured Housing Parks. Manufactured housing parks may be permitted as conditional uses in R-M districts. The following minimum standards apply to new parks, and expansions of existing parks:

(1) Setbacks. Each manufactured housing unit space shall be set back at least thirty feet (30') from all street right-of-ways, and at least twenty feet (20') from all other lot lines.

(2) Minimum Lot Size and Space Size. Manufactured housing parks shall contain at least four thousand three hundred fifty (4,350) square feet of gross site area for each manufactured housing unit space within the park. Each individual manufactured housing unit space shall be at least three thousand (3,000) square feet in area, but shall not occupy more than fifty percent (50%) of the lot area.

(3) Separation of Units. Each manufactured housing unit and accessory structure shall be separated by at least twenty feet (20') of horizontal distance from all other manufactured housing units and accessory structures.

(4) Parking. At least two paved parking spaces, one hundred eighty (180) square feet in area in each space, shall be provided as a part of each manufactured housing unit space. To provide for guests, one additional paved parking space, at least one hundred eighty (180) square feet in area, shall be provided for each ten (10) manufactured housing unit spaces. These guest parking spaces shall be centrally located within the park.

(5) Driveways.

(a) Length and Design. Internal driveways or courts designed to have one end permanently closed, shall be no more than four hundred feet (400') long unless approved by the planning commission. A turn-around having an outside roadway diameter of at least eighty feet (80') shall be provided at the closed end of any driveway.

(b) Paving. All internal driveways shall be paved with asphalt. The minimum requirements are six inches (6") of compacted SB2 gravel with three inches (3") of asphalt surface on firm subgrade. Property owners shall be responsible for maintaining paving on all internal driveways.

(c) Width. Drives shall have a minimum paved width of twenty-six feet (26').

One-way drives are specifically prohibited.

(6) Signs. One detached, indirectly illuminated sign, not exceeding twenty (20) square feet in area, may be erected at the main entrance to the manufactured housing park.

(7) Refuse Collection Facilities. Refuse collection facilities and/or provisions shall be indicated on the site plan, and shall be provided in accordance with city standards. There shall be opaque screening on three (3) sides of dumpsters.

(8) Fire Protection. Fire lines and fire hydrants shall be shown on the site plan, and shall be provided in accordance with recommendations of the fire marshall. No manufactured housing unit space shall be more than two hundred fifty feet (250') from a fire hydrant.

(9) Water and Wastewater Service. Each manufactured housing unit shall be connected to a public sanitary sewer and a public water supply system.

(10) Underground Utilities. All light, gas, water, telephone and cable television distribution and service lines to each individual manufactured housing unit shall be placed underground and conform to all state and local codes and regulations.

(11) Inspections. It shall be the duty of the building inspector to make an annual inspection of each approved manufactured housing park, and present to the park owner and unit owner, a written list of existing violations, should there be any.

(12) Resident Managers. In manufactured housing parks containing thirty (30) or more units, a manager must reside within the park area.

Sec. 153-089. Manufactured Housing Units. Manufactured housing units—those that do not meet the definition of manufactured housing unit, residential design—shall be considered permitted uses only in R-MH districts. Compliance with the standards outlined in Sec. 153-090 (4) through (8) are required. No permit or other approval shall be granted for the placement of a mobile home in the corporate limits. Exchange or replacement of existing manufactured housing units shall only be permitted in R-MH zones.

Sec. 153-090. Manufactured Housing Units, Residential Design. Compliance with all of the standards of this section is required in order for a manufactured housing unit to be classified as a residential design, manufactured housing unit.

(1) Size.

(a) The minimum width of a residential design, manufactured housing unit shall be twenty-four feet (24'); with width measured perpendicular to the longest axis at the narrowest part.

(b) The length of a residential design, manufactured housing unit shall not exceed

four (4) times its width, with length measured along the longest axis.

(c) A residential design, manufactured housing unit shall have a minimum area of one thousand two hundred (1,200) square feet (enclosed and heated living area).

(2) Roof.

(a) Pitch. The roof must be predominantly double-pitched and have a minimum vertical rise of four inches (4") for every twelve inches (12") of horizontal run.

(b) Materials. The roof must be covered with material that is customarily used on site-built housing units. Customary materials include asphalt composition or fiberglass shingles.

(c) Eaves. The roof shall have a minimum eave projection and roof overhang of ten inches (10"), which may include a gutter.

(3) Siding.

(a) Materials. Exterior siding must be of a material customarily used on site-built housing units. Customary materials include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials. Customary materials do not include smooth, ribbed or corrugated metal or plastic panels or material that has a high gloss finish.

(b) Design and Placement. Siding material shall extend below the top of the foundation or curtain wall, or the joint between the siding and enclosure wall shall be flashed in accordance with the city's adopted building code.

(4) Installation of Unit.

(a) Guidelines. The unit shall be installed in accordance with the recommended installation procedures of the manufacturer, and the standards established by the International Building Code, as adopted by the State of Arkansas, as well as those established by the Arkansas Manufactured Home Commission.

(b) Foundation. A continuous, permanent concrete or masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, which may include walk-out basements and garages, shall be installed under the perimeter of the unit; also in accordance with the above referenced requirements.

(5) Entrance Landing Area. At the main entrance door to the unit, there shall be a landing that is a minimum of five (5) square feet, constructed in accordance with building code requirements.

(6) Transport Equipment. All running gear, tongues, axles, and wheels must be removed at the time of installation of the unit on the lot.

(7) Finished Floor Elevation. The finished floor of the unit shall meet the manufacturer's specifications unless the unit is located in a floodplain; in which case floodplain regulations shall rule.

(8) Additions. Attached additions and detached garages shall comply with the building code, and floodplain regulations if applicable. All standards of this section shall apply to such additions and garages.

Sec. 153-091. Sign Regulations. 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 or her 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.

(A) (a) Signs Permitted Within Zoning Districts.

(1) All districts.

(a) Those signs excluded from the definition of signs in this chapter.
(b) Any sign used in conjunction with or necessary for a public facility.

(2) Residential Districts.

(a) Real estate and building construction signs not to exceed 32 square feet and six feet in height.

(b) Subdivision name signs not to exceed 128 square feet when used as an architectural or landscape feature of the subdivision.

(3) Commercial Districts.

(a) Real estate and building construction signs not to exceed 32 square feet and six feet in height.

(b) 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.

(c) 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 10 feet from the road right of way.

(B) Prohibited Signs.

(1) Outdoor advertising signs, also known as billboards, and portable signs, as well as flashing and animated signs, are expressly prohibited in all districts.

DIVISION 9. GENERAL STANDARDS

Sec. 153-101. Off-Street Parking and Loading

(1) Applicability. Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.

(2) Parking and Loading Schedules.

(a) Off-Street Parking Schedule A. Off-street parking spaces shall be provided in accordance with the following off-street parking schedule ("Schedule A"). In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B.

The number of parking spaces required for a use not listed herein shall be the same as for a similar use that is listed. When the required number of spaces cannot be ascertained by this method, or if the applicant and the city staff cannot agree, the matter shall be submitted for planning commission determination. Such determination shall be subject to appeal to the city council.

Schedule A

Residential Uses	Number of Spaces Required
Single-family detached	2 per dwelling unit
Single-family attached	2 per dwelling unit
Duplex	2 per dwelling unit
Multi-family	1.25 per efficiency unit 1.75 per one-bedroom unit 2.25 per two-bedroom unit
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit

Civic & Commercial Uses	Number of Spaces Required
Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats, based on maximum capacity
Bank or financial institution	1 per 300 square feet
Bed and breakfast	2 per building, plus 1 per guest room
Church	1 for each 4 seats in the sanctuary (sharing possible)
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Construction sales and service	Spaces to be provided pursuant to Schedule B
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Funeral home	1 for each 4 chapel seats, plus 1 per employee

Schedule A (continued)

Civic & Commercial Uses	Number of Spaces Required
Government service	1 per 300 square feet
Hospital	1 for each 3 beds, plus 1 for each 3 employees
Hotel or motel	1 per guest room, plus 1 per 10 guest rooms
Library	1 per 500 square feet
Medical service	6 per doctor or dentist
Museum	1 per 500 square feet
Office, General	1 per 300 square feet
Recreation/entertainment, indoor	1 per 400 square feet
Recreational vehicle park	1 per camping space
Restaurant, fast food	1 per 75 square feet of customer service/dining area; 1 per 200 square feet if no such service/dining area
Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail/service, general	1 per 250 square feet
Retail/service, furniture & bulky items	Spaces to be provided pursuant to Schedule B
School, nursery, elementary & middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	2 per service bay, plus 1 per pump
Vehicle & equipment sales	Spaces to be provided pursuant to Schedule B
Vehicle repair, general or limited	5 per service bay
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater

Schedule A (continued)

Industrial & Manufacturing Uses	Number of Spaces Required
Asphalt or concrete plant	Spaces to be provided pursuant to Schedule B
Auto wrecking or salvage yard	Spaces to be provided pursuant to Schedule B
Manufacturing, general	Spaces to be provided pursuant to Schedule B
Manufacturing, limited	Spaces to be provided pursuant to Schedule B
Research service	1 per 300 square feet
Warehousing	Spaces to be provided pursuant to Schedule B
Welding or machine shop	1 per 1,000 square feet or 1 per employee, whichever is greater

(b) Off-Street Parking Schedule B. Off-street parking for "Schedule B" uses shall be provided in accordance with the following table:

Schedule B

Activity	Number of Spaces Required
Office or administrative area	1 per 300 square feet
Indoor sales, service or display area	1 per 500 square feet
Outdoor sales, service or display area	1 per 750 square feet
Manufacturing area	1 per 1,000 square feet
Indoor storage, warehousing, or equipment servicing	1 per 5,000 square feet unless number of employees and visitors requires greater

(c) Off-Street Loading Schedule. Off-street loading spaces shall be provided in accordance with the following minimum standards:

Off-Street Loading Schedule

Floor Area (Square Feet)	Minimum Off-Street Loading Requirement

Retail and Service, Warehouse, Wholesale, & Manufacturing Uses

3,000 to 25,000	1
25,001 to 85,000	2
85,001 to 155,000	3
155,001 to 235,000	4

235,001 to 325,000	5
325,001 to 425,000	6
425,001 to 535,000	7
535,001 to 655,000	8
655,001 to 775,000	9
775,001 to 925,000	10
925,001 or more	10, plus 1 per 200,000 square feet above 925,001

Office, Nursing Home, Hospital, Hotels & Institutions

3,000 to 100,000	1
100,001 to 335,000	2
335,001 to 625,000	3
625,001 to 945,000	4
945,001 or more	5, plus 1 per 500,000 square feet above 945,001

(3) Computing Off-Street Parking and Loading Requirements.

(a) Multiple Uses. Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

(b) Fractions. When measurements of the number of required spaces result in fractions, any fraction of one-half or less shall be disregarded and any fraction of more than one-half shall be rounded upward to the next highest whole number.

(c) Area. Unless otherwise noted in these provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.

(d) Employees, Students and Occupant-Based Standards. For the purpose of computing parking requirements based on the number of employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

(e) American's With Disability Act Requirements (ADA). Pursuant to federal ADA standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and

reserved for use by person with physical disabilities. Responsibility for compliance with ADA, in all respects, shall rest with the applicant.

(4) Location and Design of Off-Street Parking and Loading Spaces.

(a) On-Site. Except as otherwise specifically provided, required off-street parking and loading spaces shall be located on the same lot as the principal use.

(b) Right-of-Way. Off-street parking spaces shall be prohibited within the public right-of-way; and no portion of the abutting street right-of-way shall, except for the driveway, be paved or used in any manner except as green area.

(c) Setbacks.

In R-E, R-1, R-2, R-3 and R-MH districts, required off-street parking shall not be located within a street (front or street side) setback. Parking in excess of the required number of spaces is allowed in the street setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.

(2) Where parking is to be provided in the street setback of a multi-family dwelling, there shall be established a parking setback line of ten feet (10'). The area between the parking setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover not inconsistent with other landscaping provisions contained herein, and protected by interior curbing.

(3) In all commercial and industrial districts, required parking is allowed within the street setback; however, public right-of-way except for the driveway, shall not be graveled or hard-surfaced.

(d) Ingress and Egress. Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to "back" onto a public right-of-way, except single family and duplex residential development on local and collector streets.

(e) Surfacing. All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete, or brick; provided driveways serving single-family dwellings shall only be required to be paved the first fifty feet (50'), as measured from the street, except in "A" zoning districts. The area of a driveway located between the edge of the street and the property line, shall also be paved.

(f) Drainage. All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all storm water, and to not increase the storm water runoff onto the surface of adjoining properties or streets.

(g) Curbing. The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family and duplex residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. In addition, the principal building on the lot shall be protected by curbs and/or raised walkways. Rollover curbs shall not be permitted, and wheel-stops are expressly prohibited as alternatives to meeting curbing requirements. The area between the curb and the property line, except for the driveway(s), shall be maintained as green space.

(h) Striping. Off-street parking areas containing five (5) or more spaces shall have parking spaces delineated by pavement striping.

(i) Parking Space Dimensions. Off-street parking spaces shall contain a minimum area of at least one hundred eighty (180) square feet, with a minimum width of nine feet (9') and a minimum length of eighteen feet (18').

(j) Loading Space Dimensions. Off-street loading spaces shall be at least fourteen feet (14') by forty-five feet (45') in size, with a minimum height clearance of eighteen feet (18').

(k) Aisle Dimensions. Drive aisles within off-street parking lots shall comply with the following minimum width requirements:

Parking Angle	One-Way Aisle	Two-Way Aisle
90°	24'	24'
60°	18'	24'
45°	16'	24'
30°	13'	24'

(l) Timing of Construction. All required parking and loading spaces, driving aisles, and access ways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued by the city's inspection department if it is determined, based on information provided by the applicant, that inclement weather or other factors beyond the control of the applicant have prevented compliance with this "timing" requirement. Before approval of a temporary certificate of occupancy, the parking area subgrade and (SB2) stone base shall be compacted in accordance with the city's construction standards. The temporary certificate of occupancy shall expire at the end of one

hundred twenty (120) days or within such shorter timeframe specified by the inspection department at the time of approval of the certificate.

(m) Use of Off-Street Parking and Loading Spaces. Required off-street parking spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, manufactured homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.

(5) Off-Site Parking. Required off-street parking shall be located on the same lot as the use it is intended to serve; provided that a portion, not to exceed twenty-five percent (25%), of the required off-street parking spaces may be located on a remote and separate lot from the lot on which the principal use is located, if the off-site parking complies with the following standards:

(a) Ineligible Activities. Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, restaurants, convenience stores, or other convenience-oriented uses.

(b) Location. No off-site parking area shall be located more than eighty feet (80') from the required parking lot of the use served, unless a shuttle service is provided. Distance shall be measured along the shortest legal, practical walking route.

(c) Zoning Classification. Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.

(d) Agreement for Off-Site Parking. In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the zoning official for recording. In addition, whether under the same ownership or not, a legal document to prevent development of the off-site parking area shall be executed and recorded. Recording of the agreement(s) shall take place before issuance of a building permit for any use to be served by the off-site parking area; or in the case of an existing building, prior to issuance of a certificate of occupancy.

(6) Shared Parking. The zoning official, subject to appeal to the planning commission, may authorize a reduction in the number of required parking spaces for multiple use developments, and for uses that are located near one another that have different peak parking demands and operating hours. Shared parking shall be subject to the following standards.

(a) Location. Shared off-street parking spaces shall be located no further than

three hundred feet (300') from the building and uses they are intended to serve unless shuttle service is provided.

(b) Study. An acceptable parking study provided by the applicant shall be submitted which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month, or year.

(c) Agreement. A shared parking plan shall be enforced through written agreement. Proof of recording of the agreement shall be presented prior to issuance of a building permit.

(d) Revocation of Certificate of Occupancy. Failure to comply with the shared parking provisions of this article shall constitute a violation of these regulations, and shall specifically be cause for revocation of a certificate of occupancy.

(7) Outdoor Parking/Storage of Boats, Trailers, and Recreational Vehicles. One boat, trailer and/or recreational vehicle may be parked outdoors on a lot in a residential district provided that:

(a) The boat, trailer or recreational vehicle is owned and used by a resident of the premises;

(b) The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight (8) hours;

(c) The boat, trailer and/or recreational vehicle is located in the side or rear yard;

(d) The boat, trailer and/or recreational vehicle is not used for living, sleeping or housekeeping purposes;

(e) The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law; and

(f) The area must be kept free of weeds and debris.

(8) Vehicle Stack Space for Drive-Thru Facilities. In addition to meeting the off-street parking requirements of the section, establishments with drive-thru facilities shall comply with the following minimum vehicle stack space standards.

(a) Stack Space Schedule.

(1) Fast-food restaurants, one hundred ten feet (110'), as measured from the order station.

(2) Banks, seventy feet (70'), as measured from the teller drop.

(3) Automatic car washes, fifty feet (50'), as measured from the entrance.

(4) Other uses, thirty feet (30'), as measured from the pick-up window.

(b) Design and Layout. Vehicle stack spaces shall be subject to the following design and layout standards.

(1) Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.

(2) Stack space lanes shall be a minimum of eight feet (8') wide, and shall be separated from other internal driveways with painted lines or curbing.

Sec. 153-102. Driveways and Access—Multi-Family and Nonresidential Uses. The following standards shall apply to all driveways providing access to multi-family and nonresidential uses.

(1) General Standards.

(a) Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress or egress. Continuous curb cuts are prohibited.

(b) Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to site plan approval. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.

(c) Provisions for circulation between adjacent parcels should be provided through a coordinated or joint parking system.

(2) Driveway Spacing.

(a) Arterial Streets. Direct access to any arterial street shall be limited to the following restrictions:

(1) Spacing from Signalized Intersections. All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-controlled intersection, is at least one hundred twenty feet (120') from the perpendicular curb face of the intersecting street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size,

a reduction in spacing may be approved as long as the reduction does not result in an unsafe traffic condition.

(2) Spacing from Other (Non-signalized) Access Points. All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to any non-signalized street or driveway intersection, is at least eighty feet (80') from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, a reduction in spacing may be approved as long as the reduction does not result in an unsafe traffic condition.

(b) Collector Streets. Direct access to collector streets shall be regulated in accordance with the following standards:

(1) Spacing from Signalized Intersections. All driveways providing access to collector streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-controlled intersection, is at least one hundred twenty feet (120') from the perpendicular curb face of an intersecting arterial street and eighty feet (80') from the perpendicular curb face of an intersecting collector or local street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, a reduction in spacing may be approved as long as the reduction does not result in an unsafe traffic condition.

(2) Spacing from Other (Non-Signalized) Access Points. All driveways providing access to collector streets shall be constructed so that the point of tangency of the curb return radius closest to a non-signalized street or driveway intersection, is at least eighty feet (80') from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, a reduction in spacing may be approved as long as the reduction does not result in an unsafe traffic condition.

(c) Driveways Per Parcel

(1) At least one driveway shall be permitted for any lot. Shared driveways shall be recommended for lots that have less than one hundred twenty feet (120') of frontage.

(2) Individual driveways shall be located a minimum of ten feet (10') from the side property lines. A separation of at least twenty feet (20') is required between the driveways on one lot and the driveways on the adjacent lots. Driveways on the same lot shall be no closer than fifty feet

(50') to each other.

(3) Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than five feet (5') to the beginning of the curb radius.

(d) Ingress/Egress Driveway Width. The width of the driveway throat shall not exceed forty feet (40') in width. Driveway lanes shall be a minimum of thirteen feet (13') in width and shall not have more than three (3) lanes in one entrance/exit.

Sec. 153-103. Landscaping and Screening. This section sets out the minimum landscaping and screening requirements for new development in the city.

(1) Applicability Exemptions. The following shall be exempt from the standards of this section:

(a) Residential. The A, R-E, R-1, R-2, R-3, and R-MH districts shall be exempt from all standards of this section; provided such standards shall apply to manufacturing home parks.

(b) Existing Development - Changes in Use. Improvements or repairs to existing developments that do not result in an increase in floor area, and changes in use that do not result in an increase in intensity, shall also be exempt from all standards of this section.

(2) General Landscaping Requirements. In the absence of a landscape plan approved by the planning commission, the following general landscaping requirements shall apply to all development:

(a) Landscaping Required. All multi-family development of five (5) units or more, and all commercial development shall be required to provide at least one (1) tree or three (3), five (5) gallon shrubs per unit within the development.

(b) Location. Landscaping required pursuant to this section shall be installed between the property line and the required street setback areas.

(3) Parking Lot Landscaping. In the absence of a landscape plan approved by the planning commission, the parking lot landscaping standards of this section shall apply to the interior of all off-street parking areas containing more than ten (10) off-street parking spaces. They shall not apply to vehicle and equipment sales lots or storage areas, multi-level parking structures, or areas devoted to drive-thru lanes.

(a) Relationship to Other Landscaping Standards. Trees provided to meet the above general landscaping requirements may be used to meet a development's

parking lot landscaping requirements.

(b) Required Landscaping. In the absence of a landscape plan approved by the planning commission, at least one (1) tree or three (3), five (5) gallon shrubs shall be provided for each ten (10) parking spaces and fraction thereof within an off-street parking area.

(c) Location. Required landscaping shall be reasonably dispersed throughout off-street parking areas.

(d) Planting Areas. Planting areas that contain trees shall be at least seven feet (7') wide and protected by raised curbs to prevent damage by vehicles.

(4) Dumpster Screening. Dumpsters located in any district shall be completely screened from view on three (3) sides by a fence or wall with a minimum height of six feet (6'), or one foot (1') taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster from three (3) sides, and be compatible in material and color with the principal structure on the lot. All dumpsters shall have a secured top to prevent materials from blowing out.

(5) Landscape Material Standards. The following standards shall be considered the minimum required planting standards for all trees and landscape material:

(a) Plant Quality. Plants installed to satisfy the requirements of this section shall conform to or exceed plant quality standards employed by nurseries. All plants shall be nursery grown and adapted to the local area.

(b) Artificial Plants. No artificial plants or vegetation shall be used to meet any standards of this section, unless expressly approved by the planning commission.

(c) Trees.

(1) Types.

(a) Required. Where required or permitted, trees shall be of ornamental, evergreen, or of the large deciduous types.

(b) Prohibited. The following trees shall be prohibited and shall not be used to satisfy the landscaping or buffering standards of this section unless approved by the planning commission: box elder, soft maple, hackberry, or American elm.

(c) Species Mix. When more than ten (10) trees are required to be planted to meet the standards of this section, a mix of species shall be provided. For each ten (10), or fractions thereof, another

differing species shall be used.

(2) Size.

(a) Medium and Large Deciduous Trees. Medium and large deciduous trees planted to satisfy the standards of this section shall have a minimum height of eight feet (8'), and a minimum diameter of three inch (3"), measured at a point that is at least four feet (4') above existing grade level.

(b) Small Deciduous or Ornamental Trees. Small deciduous and ornamental trees planted to satisfy the standards of this section shall have a minimum height of four feet (4').

(c) Conifers or Evergreens. Conifers or upright evergreen trees planted to satisfy the standards of this section shall have a minimum height, after planting, of five feet (5').

(d) Use of Existing Plant Material. Trees that exist on a site, prior to its development, may be used to satisfy the landscaping standards of this section provided they meet the size, variety, and location requirements of this section.

(6) Installation, Maintenance and Replacement.

(a) Installation. All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. All landscape material, both living and nonliving, shall be in place prior to issuance of a final certificate of occupancy. A temporary certificate of occupancy may be issued prior to installation of required landscaping if binding, written assurances are submitted, insuring that planting will take place when planting season arrives.

(b) Maintenance and Replacement. Trees, shrubs, fences, walls and other landscape features (which includes screening) depicted on plans approved by the city shall be considered as elements of the project in the same manner as parking, building materials, and other details of the plan are considered elements. The landowner, or successors in interest, or agents, if any, shall be jointly and severally responsible for the following:

(1) Regular maintenance of all landscaping in good condition, and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;

(2) The repair or replacement of required landscape structures (e.g. fences and walls) to a structurally sound condition;

(3) The regular maintenance, repair, or replacement, where necessary, of any landscaping required by this section; and

(4) Continuous maintenance of the site.

(7) Alternative Compliance. Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved by the planning commission, an alternative compliance landscape plan may be substituted, in whole or in part, for landscaping requirements of this section.

(a) Procedure. Alternative compliance landscape plans shall be considered through the site plan review process.

(1) Review Criteria. In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards, and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:

(a) Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this section;

(b) Innovative landscaping or architectural design is employed on the proposed development site to achieve a buffering effect that is equivalent to the buffering or screening standards of this section;

(c) The required landscaping or buffering would be ineffective at maturity due to topography, or the location of improvements on the site; or

(d) The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

(e) Storage buildings and containers. Prior approval required by planning commission to place accessory storage building(s)/container(s) on any site with code requirements and completely screened from view. Minimum height of six (6`) or

one (1) foot higher than storage unit which ever is greater.

Sec. 153-104. Corner Visibility. On corner lots at intersecting two-way streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet (2') and eight feet (8') above curb grade within the triangular area formed by an imaginary line that follows street side property lines, and a line connecting them, twenty-five feet (25') from their point of intersection. This sight triangle standard may be increased by the city in those instances deemed necessary for promoting traffic safety, and may be lessened at intersections involving one-way streets.

Sec. 153-105. Residential Compatibility Standards. The compatibility standards of this section are intended to protect low density residential uses and neighborhoods from the adverse impacts sometimes associated with higher density residential uses and nonresidential development. The standards are intended to mitigate the effects of uses with operating and structural characteristics that are vastly different than those associated with single-family uses.

(1) Applicability (Triggering Property). Compatibility standards shall apply to all development in the A, R-M, C-1, C-2, and I zoning districts when such development is adjacent to "triggering property," which shall include all property:

(a) Occupied by a single-family dwelling unit that is a use permitted by-right in the zoning district in which it is located; or

(b) Zoned in an R-E, R-1, R-2, R-3 or R-MH district.

(2) Exemptions.

(a) Notwithstanding the above applicability provisions, compatibility standards shall not be triggered by property that is public right-of-way, roadway, or utility easement.

(b) The following uses and activities shall specifically be exempt from compliance with compatibility standards:

(1) Construction of a use permitted by-right in an R-E, R-1, R-2, R-3, or R-MH district;

(2) Structural alteration of an existing building when such alteration does not increase the building's square footage or height, or result in an increase in noise, hours of operation, or other factors which would impact surrounding properties; and

(3) A change in use that does not increase the minimum number of off-street parking spaces required.

(c) Setback Standards. The following setback standards shall apply to all development that is subject to compatibility standards:

(1) Small Sites. On sites with twenty thousand (20,000) square feet of area or less that also have less than two hundred feet (200') of street frontage, structures shall be set back from the lot line of triggering property one and one-half times (1 ½) times the required setback.

(2) Large Sites. On sites with more than twenty thousand (20,000) square feet of area or two hundred feet (200') of street frontage or more, structure shall be set back from the lot line of triggering property a minimum distance equal to twice the required setback for the zone in which the structure is to be located.

(3) Surface-Level Parking and Driveways. Surface-level off-street parking areas and driveways shall not be subject to the above setback standards, however such standards shall apply to parking structures. Surface-level parking areas shall be set back a minimum of ten feet (10') from the lot line of triggering property.

(d) Building Height. No structure shall exceed thirty-five feet (35') in height within fifty feet (50') from the lot line of triggering property.

(e) Screening Standards. Decorative walls, vegetative screening, fencing, or earthen berms shall be provided to completely screen off-street parking areas, mechanical equipment, storage areas, and refuse collection areas from view of triggering property.

(f) Site Design Standards. The following additional site design standards shall apply to development that is subject to the compatibility standards of this section:

(1) No swimming pool, tennis court, ball field, or playground area (except those that are accessory to a single-family dwelling unit) shall be permitted within fifty feet (50') of the lot line of triggering property.

(2) Dumpsters and refuse receptacles shall be located a minimum of twenty-five feet (25') from the lot line of triggering property.

(3) Exterior lighting shall be designed and located to minimize light spilling onto surrounding property.

Sec. 153-106. Fences. Except as otherwise specifically provided in other codes and regulations of the city, the following regulations shall apply to the construction of all fences.

(1) Maximum Height. Fences shall not exceed eight feet (8') in height, unless approved

by the planning commission. Fencing in I districts, and around tennis courts and other recreational amenities, shall be exempt from this height limit.

(2) Corner Visibility. Fences shall comply with the corner visibility standards of Section 153-104.

(3) Construction/Materials. Fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fenced area or hidden from view of those outside the fenced area. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel, except galvanized metal, shall have a color finish coat applied to them and be preserved against rust and corrosion.

(4) Design and Maintenance. All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

(5) Prohibited. Barbed wire and electrified fences shall be prohibited on all lots of less than one (1) acres in area.

Sec. 153-107. Sidewalks.

(1) Multi-family and Commercial Development. Sidewalks shall be required for all multi-family developments that contain five (5) units or more. Sidewalks may be required through the site plan approval process for commercial developments.

(2) Construction Standards. Sidewalks shall be constructed in accordance with all applicable city standards and specifications, and with all applicable ADA (Americans with Disabilities Act) requirements. Sidewalks must be setback at least 3' from the back of the curb or pavement and such sidewalks shall have a minimum width of four (4) feet. This specification shall be the city's standard requirement. Provided, however, that under unique circumstances, exceptions may be made through site plan approval, for a sidewalk to be attached to the curb or be located closer than three feet (3') to the curb, provided such sidewalk shall have a minimum width of six feet (6').

(3) Timing of Installation. Required sidewalks shall be installed prior to occupancy of any structure.

Sec. 153-108. Drainage and Storm water Management. Adequate provisions for drainage of surface water and storm water management shall be made for all development and redevelopment. Plans for such, including grading plans, for all commercial and industrial development, and all multi-family developments that contain five (5) units or more, shall be submitted and considered as part of the site plan approval process. All such plans shall be

prepared by a registered professional civil engineer, licensed in Arkansas, and submitted and considered as part of the site plan approval process. Such plans shall contain adequate and properly designed measures to control erosion and sediment discharge from the construction site, and to prevent water pollution that may result from such discharges and runoff. The provisions of this section shall also be applicable to all development and redevelopment impacting one (1) acre or more of property, regardless of the type of development or use.

DIVISION 10. BOARD OF ZONING ADJUSTMENT

Sec. 153-111. Creation and Appointment. The Board of Zoning Adjustment (BZA) is hereby established, which shall be composed of the Planning Commission as a whole.

Sec. 153-112. Organization. The board of zoning adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of these regulations. 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 zoning adjustment shall keep minutes of its vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be a public record. A quorum of the board shall consist of three (3) members. The concurring vote of a majority of the total board members shall be necessary to revise any order or decision of the administrative officer, or to decide on any matter upon which it is required to pass. The administrative official shall attend each meeting of the board and shall bring with him all plans, specifications, plats, and papers relating to any case before the board for determination.

Sec. 153-113. Powers and Duties. The board of zoning adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(1) 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 these regulations. The board may affirm or reverse, in whole or in part, said decision of the administrative official.

(2) Variances. To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the board of zoning adjustment unless and until:

(a) 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, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; 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 the zoning regulations to other lands, structures, or buildings in the same district.

(b) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(c) The board of zoning 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.

(d) The board of zoning adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(e) In granting any variance, the board of zoning adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. 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 these regulations.

(f) Under no circumstances shall the board of zoning adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

(3) Special exceptions. In addition to the powers and duties specified above, the board of zoning adjustment shall also have the following powers and duties to hold public hearings and decide the following special exceptions:

(a) Interpret zoning district boundaries, upon appeal of the zoning official's determination and 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.

(b) Determine the amount of parking required for a use not listed herein.

(c) Vary the parking regulations by not more than twenty-five percent (25%) where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by these regulations.

(d) Permit an addition to a nonconforming structure provided that said addition conforms to all building code requirements, and further provided that the current use of the structure conforms to the zoning district in which it is located.

Sec. 153-114. Procedure for Application and Appeals.

(1) Application. Appeals to the board of zoning adjustment 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 within ten (10) days after the decision has been rendered by the administrative official. Every appeal or application shall refer to the specific provision of the code involved and shall exactly set forth:

(a) The interpretation that is claimed;

(b) The use for which the permit is sought; or

(c) The details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.

The appeal or application shall be filed with the officer from whom appeal is taken and with the board. The officer from whom appeal is taken shall forthwith transmit to the board, all papers constituting the record upon which the action appealed from was taken.

(2) Public Hearing and Notice. The board shall fix a reasonable time for the public hearing of an application or 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 application or appeal is requested, as well as a brief statement of what the application or appeal consists. Evidence of notification of all adjoining property owners shall accompany all applications for variances. Such notification shall include the above described public notice information, as well as the time and place where the public hearing will be conducted. Public hearings may be adjourned from time to time, and, if the time and place of the adjourned meeting is publicly announced when the adjournment is made, no further notice of such adjourned meeting need be published. At a public hearing any party may appear in person, by agent, or by attorney.

(3) 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.

(4) 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, and proceeds to completion in accordance with the terms of a building permit.

(5) Appeals from Board of Zoning Adjustment. Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of zoning adjustment may seek review by a court of record of such decision, in the manner provided by Arkansas law.

DIVISION 11. ADMINISTRATION AND ENFORCEMENT

Sec. 153-121. Administrative Officer. The provisions of these zoning regulations shall be administered by the building department, under the direction of the building/zoning official, who shall act as an administrative official. The official may be provided with the assistance of such other persons as the mayor may direct. It shall be the duty of the administrative official to see that these regulations are enforced through the proper legal channels. Appeal from the decision of the administrative official may be made to the board of zoning adjustment. The administrative official, and his designees, are generally empowered to carry out or conduct any activities essential to the proper administration and enforcement of these regulations; said activities to include, but not be limited to, the following:

(1) Permits. To issue a zoning permit, building permit, and certificate of occupancy when compliance is made with these regulations; to refuse to issue the same in the event of noncompliance; and to give written notice of such refusal and reason thereof to the applicant.

(2) Collections. To cause the collection of the designated fees as set forth in these regulations.

(3) Records. To make and to keep all records necessary and appropriate to the office, including records of the issuance and denial of all zoning and building permits, and certificates of occupancy, and the receipt of complaints of violation of these regulations and action taken on the same, and to file such for record.

(4) Inspections. To inspect any building or land to determine whether violations of these regulations have been committed or exist.

(5) Enforcement. To enforce these regulations and take all necessary steps to remedy any condition found in violation. The city may enjoin any individual or property owner who is in violation of these regulations to prevent or correct such violation. Any individual aggrieved by a violation of these regulations may request an injunction against any individual or property owner in violation of these regulations, or may mandamus any official to enforce the provisions of these regulations.

(6) Advisements. To keep the mayor, city council, planning commission, and board of zoning adjustment advised of all matters other than routine that relate to the administration and enforcement of these regulations.

Sec. 153-122. Zoning and Building Permits. It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until a zoning permit and a building permit has been issued. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of these regulations and other applicable building codes, laws, or regulations. A zoning permit shall also be required for the use or reuse of property, buildings, or structures where building permits are not required. Compliance with paved parking and other site standards shall be achieved as a condition a change of use for commercial, industrial and multi-family purposes. In addition, a zoning permit evidencing compliance with the provisions of these regulations shall be a pre-requisite to the issuance of a city privilege or occupation license.

All applications for building permits shall be accompanied by a reproducible plan drawn to scale, showing the size of the building to be erected and its location on the zoning lot, the location of any existing buildings or structures, location and dimensions of all driveways and parking or loading areas, drainage and such other information as may be necessary to provide for the administration of these regulations.

Site plans shall be required for all multi-family development proposals of three units or more, as well as for all new commercial and industrial development of 7,500 square feet or less, and substantial redevelopment. Such plans shall be reviewed and approved at the staff level, subject to appeal by the applicant to the planning commission; provided that commercial developments of over 7,500 gross square feet, multi family developments of more than three units, and substantial redevelopment, shall be approved by the planning commission. Site plan decisions by the planning commission shall be subject to appeal to the city council. Complete requirements for site plans are included in the appendices hereto.

Sec. 153-123. Certificate of Occupancy.

(1) Purpose and Authority. Certificates of occupancy are required to ensure that completed structures and the development of property of which such structures are a part, comply with the provisions of this chapter, as well as any site plans or conditional use approvals for such structures and development. The building official shall have the authority and responsibility to issue and keep records of certificates of occupancy in accordance with the requirements set forth in these regulations, and the building code. A certificate of occupancy must be applied for, and issued by the building official prior to occupancy and use of a structure or premises for any of the following:

(a) Any new structure.

(b) Any addition to an existing nonresidential structure.

(c) Any change in occupancy or use of a building or premises that involves nonresidential occupancy.

(d) Placement or change in occupancy of any manufactured home on any lot or parcel, regardless of use.

(2) Procedure. A certificate of occupancy shall be applied for coincident with the application for a building permit, and must be issued before occupancy and connection of utilities to such building.

The building official or his designated agent shall inspect the property that is the subject of an application within a reasonable time after a completed application has been filed, and shall issue a certificate of occupancy if the premises and the property comply in all respects with the applicable development regulations in effect for the city. If the premises do not so comply, the building official shall deny the application in a written notice mailed to the applicant with five (5) days, excluding weekends and holidays, after the inspection of the property, specifying the provisions of which regulation or code the structure or development does not comply.

A temporary certificate of occupancy may be issued for a portion or portions of a building that may safely be occupied prior to final completion of the building. A temporary certificate of occupancy shall be valid for a period not exceeding one (1) month, and may be renewed on a monthly basis up to a total of six (6) months. Such temporary certificate shall not be construed as, in any way, altering the respective rights, duties, or obligations of the owner or of the city relating to the use or occupancy or any other matter required by these regulations.

(3) Contents of Certificate of Occupancy. Information required for submission to obtain a certificate of occupancy shall include:

(a) Name of applicant.

(b) Nature and extent of the applicant's ownership interest in the subject property.

(c) Address of the property for which a certificate is requested.

(d) A legal description of the property, the zoning classification for the property, and a statement that the use of the property is allowed or permitted in the zoning classification for the property.

(e) A site plan for any new construction (same as required for a building permit) for the structure, or the development of which such structure is a part, is required.

(f) Such other information as requested by the building official to ensure

conformance with applicable development regulations.

Sec. 153-124. Penalty for Violation. Any person, firm or corporation who shall violate any of the provisions of these zoning regulations, or fail to comply thereafter with any of the requirements thereof, or who shall build, alter, move, or occupy any building in violation of any detailed statement or plans submitted and approved hereunder, shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding five hundred dollars ($500.00) or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed two hundred fifty dollars ($250.00) for each day that the same is unlawfully continued. The owner or owners of any building or premises or part thereof where anything in violation of these regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, engineer, person, firm 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 hereinabove provided.

Violations of these regulations that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty, however, does not prevent the simultaneous granting of equitable relief in appropriate cases.

Sec. 153-125. Amendments. Two (2) types of amendments to these zoning regulations are recognized; one being a revision in the text provisions, and the other being a change of boundary in a zoning district (a.k.a. a map amendment or rezoning).

(1) Text Amendments. Amendments to the text may be initiated by the planning commission, the city council, or by the mayor. Proposed amendments shall be processed in accordance with the procedures set forth in this section.

(a) Notice. The building/zoning official shall be responsible for scheduling a public hearing before the planning commission. He shall prepare the content of a public notice, and ensure that the notice is published in a newspaper of general circulation within the city at least fifteen (15) days before the public hearing.

(b) Hearing and Recommendation by the Planning Commission. The planning commission shall conduct a public hearing on the proposed amendment, hearing both the proponents and opponents, if any. Following the public hearing, the commission shall determine its recommendation(s) regarding the proposed amendment, and make such known to the city council.

(c) Action by the City Council. After receiving the recommendation of the planning commission, the city council may approve the amendment as submitted; approve a revised version they deem appropriate; return it back to the planning commission for further study and reconsideration; table it; or deny it. If the city council action does not take place within three (3) months after the planning commission's public hearing, the amendment process must begin anew.

(2) Change in District Boundary. A change in a zoning district boundary, also referred to as a map amendment or rezoning, may be proposed by the city council, the planning commission, or by a property owner or his legal agent. Such amendments shall be considered in accordance with the procedures set forth in this section.

(a) Application Submittal. A complete application for a change in a zoning district boundary (or map amendment), hereafter referred to as a rezoning, shall be submitted to the zoning official in a form established for that purpose, along with a non-refundable processing fee of two hundred fifty dollars ($250.00). Applications shall be filed by the 20th of the month in order to be placed on the planning commission agenda for the subsequent months' first meeting, which is held on the second Tuesday thereof. No application shall be processed until the zoning official determines that the application is complete, and the required fee has been paid.

(b) Notice. Promptly upon determining that the application is complete, the zoning official shall schedule a public hearing date before the planning commission, notify the applicant of the hearing date, and provide at least fifteen (15) days notice of the hearing in a newspaper of general circulation in the city. The notice shall indicate the time and place of the public hearing; give the general location and description of the property, such as the street address and acreage involved; describe the nature, scope and purpose of the application; and indicate where additional information about the application can be obtained.

The applicant shall (1) post notice on weatherproof signs provided by the city; (2) place the signs on the property that is the subject of the application at least ten (10) days before the public hearing; and (3) ensure that the signs remain continuously posted until a final decision is made by the city council. One (1) sign shall be posted by the applicant for each three hundred feet (300') of street frontage, up to a maximum of four (4) signs. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents, and passers-by. There shall be a minimum of one (1) sign along each abutting street.

Individual property owners applying for changes to the official zoning map shall present evidence or an affidavit, at least ten (10) days prior to the required public hearing, that all property owners within one hundred feet (100') have been notified of the proposed zoning change and of the time, date, and place of the public hearing.

(c) Hearing and Recommendation by the Planning Commission. The planning commission shall hold a public hearing on the proposed rezoning. At the conclusion of the hearing, and after deliberation, the commission shall recommend approval as submitted; may recommend approval of less area and/or

of a lesser intense, but like classification than what was applied for; table with cause, not to exceed one time for consideration at the next meeting; or deny the application. The commission shall, regardless of the action taken, submit an accurate written summary of the proceedings to the city council.

(d) Hearing and Action by the City Council. After the planning commission recommends approval of an application, the applicant shall be responsible for preparing the appropriate ordinance, and requesting that the recorder-treasurer place it on the city council agenda. The zoning official shall review the proposed rezoning ordinance, prior to its placement on the city council agenda, to verify that the contents of the document, and the property description therein, accurately reflect the action taken by the planning commission.

If the planning commission does not recommend approval of an application, the city council may consider the matter, but only after an appeal is filed by the property owner with the recorder-treasurer, and a special public hearing is set and subsequently held. Applicant responsibility with regard filing documents with the recorder-treasurer, as described above, is also applicable.

In considering an application for approval, whether on appeal or not, the city council may reduce the amount of land area included in the application, but not increase it; and may change the requested classification in whole or in part, to a less intense zoning district classification than was indicated in the planning commissions' required public notice.

(5) Approval Criteria. The criteria for approval of a rezoning are set out in this section. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

(a) Consistency of the proposal with the comprehensive plan.

(b) Consistency of the proposal with the purpose of these regulations.

(c) Compatibility of the proposal with the zoning, uses and character of the surrounding area.

(d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment.

(e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual impairment, odor, noise, light, vibration, hours of use/operation, and any restriction to the normal and customary use of the affected property.

(f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and

(g) Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police, and emergency medical services.

(6) Successive Applications. In the event that the city council denies an application for a rezoning, a similar application involving any of the property considered in the previous rezoning request shall not be considered by the planning commission for six (6) months from the date of the denial by the city council, unless the planning commission, upon recommendation by the zoning official, determines that there is a significant change in the size or scope of the project, or that conditions have changed in the area affected by the proposed rezoning.

Sec. 153-126. Fees. Before any action shall be taken as provided in these regulations, the applicant shall submit a fee with the application in accordance with the city codes. Under no condition shall said sum or any part thereof be refunded for failure of said action to be approved by the city.

DIVISION 12. VALIDITY AND REPEAL

Sec. 153-131. Validity. These zoning regulations and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, or paragraph, section or subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of these zoning regulations shall not be affected thereby.

The city council hereby declares that all such remaining parts would have been passed irrespective of the validity or invalidity of any parts found to be invalid.

Sec. 153-132. Repeal. All ordinances, codes, or regulations, or parts of ordinances, codes, or regulations, in conflict with these zoning regulations, or inconsistent with provisions of these regulations are hereby repealed to the extent necessary to give these zoning regulations full force and effect upon their adoption by the city council.

Appendix A

Site Plan/Conditional Use Permit Checklist

At a minimum, site plans and/or conditional use permit applications shall be provided on a suitable medium. Sites plan shall provide the following information and format:

____ 1. Name of the development and/or subdivision;

____ 2. Address and lot number of the property;

____ 3. Location map drawn to a minimum scale of one inch (1") equals one thousand feet (1,000'), and including city limits and streets with one-half (½) mile radius of the site;

____ 4. Name, address and telephone numbers of all owners and the applicant;

____ 5. North arrow;

____ 6. Drawn to a minimum scale of one inch (1") equals fifty feet (50'), and a graphic scale included;

____ 7. City, county and state;

____ 8. Date;

____ 9. Existing zoning;

____ 10. Name, address, and telephone number of all professional consultants;

____ 11. Seal of the appropriate professional registered in the State of Arkansas;

____ 12. Acreage and square footage of the site;

____ 13. Minimum required street, side, and rear setbacks (per city code), and by private requirements, if any exist, if more restrictive than the city code requirements;

____ 14. Floodway and floodplain boundaries with elevations referenced to, and showing the exact location of, the nearest benchmark;

____ 15. Existing and proposed land contours showing vertical intervals no greater than two feet (2');

____ 16. Adjoining property owners;

____ 17. Length of site boundaries measured to the nearest one tenth (1/10) foot;

____ 18. Value of all true bearings and angles as dimensioned in degrees and minutes;

____ 19. Location, square footage and exterior dimension, measured from outside walls of all existing and proposed buildings and structures;

____ 20. All proposed improvements in their exact relationship to existing contours and other topographic features;

____ 21. Easements indicating location, dimension, and type;

____ 22. Existing and proposed location, size and type of water lines, fire hydrants, sanitary sewers, storm sewers, culverts, street improvements and any other utilities and services affected by the site, including dumpster location and type of screening;

____ 23. Drainage plan (if required by the city engineer) indicating all existing and proposed drainage locations, size, and type, plus drainage calculations that meet the city's requirements, must be certified by a registered professional engineer licensed in the State of Arkansas. A storm water management plan, and a grading plan, may also be required by the city engineer;

____ 24. Parking and traffic control plan indicating the location, dimension and type of vehicle access, handicapped person vehicular and pedestrian access, parking spaces, loading provisions and traffic control devices;

____ 25. Sign location and type;

____ 26. Screening and buffering;

____ 27. Landscaping plan indicating location, size and type of existing and proposed materials;

____ 28. Restrictive covenants, grants of easements, or other restrictions in a recordable form;

____ 29. Common open space plan, and proposed amenities (if applicable);

____ 30. Lighting plan indicating location, type, direction, and intensity measured in foot-candles; and

____ 31. Location and characteristics of any historical structures and sites.

Appendix B

Preliminary PUD Checklist

Preliminary Planned Unit Development (PUD) Plan Application Checklist. The development concept of all land areas encompassed by the preliminary development plan shall be adequately described in sealed drawings and related reports. Applicants shall define the general form and extent of proposed development in sufficient detail to demonstrate compliance with all development and performance requirements. At a minimum, the application shall include the following:

____ 1. The preliminary development plan shall be prepared by a registered professional architect or engineer licensed to practice in the State of Arkansas, and submitted on a suitable medium. The drainage plans (and storm water and grading plans, if required), and street construction details, specifically, shall be prepared by a professional civil engineer licensed to practice in the State of Arkansas. The preliminary development plan shall bear a legible stamp of the architect or engineer preparing the plan on each page submitted;

____ 2. Parcel size (acreage and square footage);

____ 3. Total square footage of building coverage;

____ 4. Density (number of residential units per net acre);

____ 5. Total square footage of private open space provided for each residential unit, if applicable;

____ 6. Total square footage of common open space provided on the total site for the use and benefit of all the occupants, less parking lots, streets, and driveways, if applicable;

____ 7. North arrow and graphic scale;

____ 8. Proposed public utility layouts (sewers, water, electricity, gas, etc.) showing feasible connections to the existing or proposed public utility systems;

____ 9. Location of existing and platted property lines, streets, buildings, bridges, culverts, drain pipes, water mains, sewers, public utility easements, wooded areas, wetlands and the zoning classification of the proposed PUD and of the adjacent land;

____ 10. Contour intervals of two feet (2');

____ 11. The names, rights-of-ways and surface widths, grades, and locations of all proposed streets. The location and dimensions and use of proposed easements; and, location and dimensions of proposed open space;

____ 12. Proposed profile of street grades;

____ 13. Areas within the PUD that are designated to be developed in phases shall be clearly indicated with a date of completion for each phase indicated;

____ 14. Proposed streets shall be designated as public dedicated, or private streets;

____ 15. Adequate provisions for drainage of surface water shall be submitted in sufficient detail to provide for a review by the city engineer. Drainage plans shall provide a description, specifications and drawings prepared by a professional civil engineer licensed to practice in the State of Arkansas. The drainage plan shall indicate adequate provisions to provide drainage for the PUD, and for adjacent areas affected by drainage across, or from said development. Grading and storm water plans may also be required;

____ 16. Preliminary development plans shall be submitted in ten (10) copies at a scale of one inch (1") equals one hundred feet (100');

____ 17. Traffic impact study prepared by a registered professional engineer, if requested by the zoning official;

____ 18. Conceptual landscape plan indicating plant materials and location;

____ 19. Lot design and layout of multi-family developments;

____ 20. Typical square footage of each dwelling unit type;

____ 21. Minimum setbacks;

____ 22. Floor area ratios of all nonresidential uses;

____ 23. Location and square footage of all nonresidential uses; and

____ 24. Height of structures in stories and feet.

Appendix C

Final PUD Plan Checklist

Final Planned Unit Development (PUD) Plan Application Checklist. At a minimum, the final development plan shall contain all information required in the preliminary development plan, plus the following, and be submitted on a suitable medium:

____ 1. Letter from the applicant requesting a final development plan review;

____ 2. Description of the maintenance provisions of the development, where applicable;

____ 3. Survey of the property;

____ 4. Starting date and dates when various phases are projected to be completed;

____ 5. Indication, in feet, of the interior curb radius for all vehicle turning movements within, into, and off the site;

____ 6. Illustration of proposed street improvements to be provided in relation to property lines, including additional dedication, if required, and width of curb cuts;

____ 7. Illustration of existing and proposed water supply for fire protection; utility systems, including sanitary sewers, water, electric, cable television, gas and telephone; necessary easements for said utilities indicated, and evidence of approval from the responsible utility providers. Illustration of existing storm sewers, ditches, or waterways; and, dedicated easements for said drainage indicated and approved by the city engineer as to the adequacy of said easement for maintenance access;

____ 8. Illustration of location of structures, structure dimensions, including building height and dimensional distances between structures. Where structures abut a public or private street right-of-way the dimensions from structure foundations to said right-of-way must be indicated. The dimensional distances between structures shall be measured to the nearest point of the structure; and

____ 9. Detailed landscaping plan showing the spacing, size, and specific types of landscaping material for all areas of the PUD that are designated as common usable open space, plus the landscaping requirements.

SECTION 3. That as a matter of public information and pursuant to law, the Recorder-Treasurer shall cause a copy of this ordinance, including both the map and text, to be posted in the five (5) public places identified by the city council for the posting of ordinances.

PASSED AND APPROVED THIS 1st DAY OF August, 2006.

Mayor

Attest:

Recorder-Treasurer

ROLL CALL:

Shall the Ordinance pass:

	YEA	NAY	
Alderman Andrew Penzo	✓		(Ward 2, Position 2)
Alderman Arthur Penzo	✓		(Ward 2, Position 1)
Alderman Henry Piazza	✓		(Ward 1, Position 2)
Alderman Bradley Marveggio	✓		(Ward 1, Position 1)
Alderman Ken Robertson	✓		(Ward 3, Position 2)
Alderman Steve Smith	✓		(Ward 3, Position 1)
Mayor			

Yeas: 6 Nays: Ø (total)

As Chairman of the City of Tontitown Planning Commission, I do hereby certify the text and zoning map as adopted by the City of Tontitown Planning Commission at its regular meeting held on July the 25th, 2006.

Ralph Pendergraft

CITY OF TONTITOWN
ZONING DESIGNATION MAP

REVISION DATE: 05/01/2020

DISCLAIMER:
INFORMATION DEPICTED ON THIS DOCUMENT IS ACCURATE TO THE BEST OF OUR KNOWLEDGE AS OF THE DATE LISTED IN THE REVISION DATE BLOCK.

MAYOR:
THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN ORDINANCE #_____ OF THE CITY OF TONTITOWN, ARKANSAS.

SIGNATURE:

CITY CLERK
SIGNATURE:

R-1	Single Family Residential Estate (1 acre lots)
R-2	Single Family Residential (1/2 acre lots)
R-3	Single Family Residential (10,000 sf lots)
R-MH	Single Family Residential Manufactured Housing
R-E	Single Family Residential Estate (2 acre lots)
R-M	Multi-Family Residential (10,000 sf lots)
A-1	Agricultural
C-1	Light Commercial / Office
C-2	General Commercial
I-1	Industrial

North
Scale = 1/1000