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PREAMBLE

§ 153.011 TITLE.

This chapter 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 as the zoning district boundary map, titled “Official Zoning Map of the City of Tontitown, Arkansas,” which is to be kept on file in the Office of the Recorder-Treasurer.

(Ord. 2006-08-265, passed 8-1-06)

§ 153.012 AUTHORITY.

These regulations are adopted pursuant to authority granted by the Arkansas General Assembly in A.C. Title 14, Chapter 56, Subchapter 4, as amended. All membership in the various boards and commissions having authority hereunder, acting prior to the effective date of this chapter, shall remain in office and serve the remainder of their respective terms.

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(Ord. 2006-08-265, passed 8-1-06)

§ 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.

(Ord. 2006-08-265, passed 8-1-06)

§ 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.

(Ord. 2006-08-265, passed 8-1-06)

§ 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.

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(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.

(Ord. 2006-08-265, passed 8-1-06)

RULES OF CONSTRUCTION AND DEFINITIONS

§ 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.

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(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.

(Ord. 2006-08-265, passed 8-1-06)

§ 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. For example, the use “retail/service” 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, ANIMAL. The use of any land for the purpose of raising livestock.

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

AGRICULTURE, PRODUCT SALES. The retail sale of agricultural products produced on the same site.

ALLEY. A narrow public way, not in excess of 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

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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. (Do Condominiums fall here?, they are not defined anywhere else)

(this is a common word and could refer to buildings, detention ponds, neighborhoods, etc.)

AS-BUILT DRAWING. A document showing how a particular building and/or site have been constructed. (See also “Plans of Record”)

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 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, the structure housing the principal use shall be deemed to be the principal building on the plot on which the same is situated. (??) seems confusing when some lots have more than one dwelling unit or dwelling unit and business structure on same lot.

CARPORT. Space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

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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 care facilities, 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, and the like, 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 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 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 children, with a maximum of two 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 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