

ORDINANCE NO. 2010-10-360

**AN ORDINANCE AMENDING THE CITY OF  
TONTITOWN'S CODE SECTION 152 et. seq. SUBDIVISION REGULATIONS**

WHEREAS, after due notice as required by law, the Tontitown Planning Commission has considered amendments to Tontitown Code Section 152 et. seq., Subdivision Regulations.

WHEREAS, the City Council of Tontitown, Arkansas deems it necessary from time to time, to adjust certain standards for development, which could be implemented in keeping with the City adopted Subdivision Code for the purposes of promoting the health, safety, and general welfare of the citizens of Tontitown, Arkansas.

WHEREAS, the City Council has reviewed Code Section 152 et. seq. Subdivision Regulations and recommends the codification of this section.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS, that there is hereby established an amended Code Section 152 et. seq., Subdivision Regulations, for the City of Tontitown, a copy of which is attached hereto and made part of this ordinance by reference. The attached Code Section 152 et. seq., supersedes and prior code sections regarding zoning regulations within the City of Tontitown. Any prior regulations or code sections in conflict with the attached Code Section herein adopted are hereby repealed.

SECTION 1. It is intended that the latest version of the Code Section 152 et. seq., Subdivision Regulations to be all encompassing and to take precedent over the previous Code Section 152 regarding subdivision regulations and all subsequent amendments. The attached Code Section 152 et. seq., Subdivision Regulations is incorporated herein.

PASSED AND APPROVED THIS 5<sup>th</sup> DAY OF October, 2010.

  
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Mayor of the City of Tontitown

ATTEST:

  
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Recorder-Treasurer of City of Tontitown

SPONSOR:

Planning Commission

# City of Tontitown Subdivision Code



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## **ARTICLE 152.100 General Provisions**

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**Section 152.100.01 Title**

These regulations shall officially be known, cited and referred to as the “Subdivision Regulations of the City of Tontitown, Arkansas”, hereinafter referred to as “these regulations”, and shall apply to the areas

outlined on the official Planning Area Map of the City. (as adopted and recorded at the office of the Washington County Circuit Clerk in its most recent version).

**Section 152.100.02. Authority**

- (A) These regulations govern the subdividing and developing of land within the corporate limits and the Planning Area boundary, herein after referred to as “the Planning Area”, within the territorial jurisdiction of the City of Tontitown, and are adopted in accordance with the provisions of Arkansas Code Annotated § 14-56-401 through § 14-56-426.
- (B) By authority of the Ordinance establishing the Planning Commission, adopted pursuant to the powers and jurisdictions vested through applicable state statutes, the Planning Commission does hereby exercise the power and authority to review, approve, and disapprove plats for the subdivision of land within the Planning Area jurisdiction which shows lots, blocks, or sites with or without new streets.
- (C) By the same authority, the Planning Commission does hereby exercise the power and authority to pass and approve the development of platted subdivisions of land already recorded in the Office of the Washington County Circuit Clerk, if such plats are already platted and undeveloped, with no improvements.
- (D) The plat shall be considered to be entirely or partially undeveloped, if:
  - (1) Such plat has been recorded with the Washington County Circuit Clerk’s office after the effective date of these regulations without a prior approval by the Planning Commission;
  - (2) Such plat has been approved by the Planning Commission where the approval has been granted:
    - (a) More than three (3) years prior to the granting of a building permit on the partially or entirely undeveloped land, and
    - (b) The zoning ordinance, either bulk or use, for the district in which the subdivision is located, has been changed subsequent to the original final approval.

**Section 152.100.03. Purpose**

- (1) These regulations are formulated to promote safety, public health, and the general welfare of the citizens of Tontitown and its Planning Area.
- (2) The purpose of these regulations is to provide for the harmonious development of the City of Tontitown and the coordination of streets and other public utility improvements within subdivisions with existing or planned improvements or other features of the all adopted plans of the City, including the Master Street Plan and the Land Use Plan.
- (3) These regulations and standards for the subdivision and improvement of land for urban use are designed to make provision for adequate air, open space, drainage, transportation, public utilities, and other needs, and to ensure the development and maintenance of a healthy, attractive, and efficient community that provides for the conservation and protection of its human and natural resources.

- (4) These regulations are intended to set forth the procedures, requirements, and minimum standards governing the subdivision of land within the planning area of the City of Tontitown, and should be administered in a manner:
- (1) To assist the orderly, efficient, and coordinated development of land within the Planning Area of Tontitown in accord with its adopted Land Use Plan, Master Street Plan, and Zoning Ordinance.
  - (2) To promote the health, safety, and general welfare of the residents of the City.
  - (3) To ensure conformance of subdivision plans with public improvement plans for the City and its environs.
  - (4) To protect and conserve the value of land, buildings and improvements and to minimize adverse impact on adjoining or nearby properties.
  - (5) To establish a beneficial relationship between the uses of land and buildings and the municipal street system to require proper location and design of streets and building lines, to minimize traffic congestion, and to make adequate provision for pedestrian traffic circulation.
  - (6) To establish reasonable standards of design and procedures for subdivision and re-subdivision to further the orderly development and use of land and to ensure proper standards and requirements for legal descriptions and monumentation of subdivided lands as prescribed by ordinance 152.2006-12-280.
  - (7) To encourage the wise use and management of natural resources and to provide adequate and safe recreational areas of natural beauty and topography within the community.
  - (8) To provide for adequate provisions for transportation, water, fire protection, sanitary sewer, drainage, and other public requirements.
  - (9) To provide for proper ingress egress, and street connectivity to properties and neighborhoods.
  - (10) To guide the future growth and development of the City in accordance with the Land Use Plan and the Master Street Plan.
  - (11) To assist orderly, efficient and integrated development within the City's Planning Area.
  - (12) To promote sound development through utilization of good design principles.
  - (13) To facilitate the further re-subdivision of large tracts into smaller parcels, or replatting existing subdivisions
  - (14) To secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance both by developers and the Planning Commission.

**Section 152.100.04. Jurisdiction**

(A) These regulations shall be applicable to all lands within the City and its Planning Area. The Planning Area includes those areas depicted on the Planning Area Map (latest revision), copies of which are on file with the City Clerk and the Washington County Circuit Clerk, all as provided in ACA 14-56-401 through 426.

**Section 152.100.05. Planning Area Map**

Included as part of this regulation by reference is the map titled "Planning Area Map," which delineates the Planning Area boundary. Within the Planning Area, the City shall plan and apply subdivision and development regulations. The map includes the corporate city limits and that area outside the city limits in which the city will exercise its authority under 14-56-401 et seq. The planning boundary was reviewed by the Northwest Arkansas Regional Planning Commission, adopted by the Tontitown Planning Commission, ratified by the Tontitown City Council, and filed for record with the Washington County Circuit Clerk's office

**Section 152.100.06. Applicability**

(A) It is the policy of the City of Tontitown to consider the subdivision of land and the subsequent development of subdivided plat as subject to the control of the City pursuant to plans of the City, primarily the Land Use Plan and Master Street Plan of the City of Tontitown, for orderly planning and efficient development of the City and the Planning Area. These regulations and development standards shall apply to the following forms of land subdivision and development:

- (1) *Subdivision*. The division of land into four or more tracts, lots, sites, or parcels;
- (2) *Property Line Adjustments*. A transfer or adjustment of a property line that does not create a separate, new lot. A property line adjustment may or may not require dedication of right-of-way or utility easements;
- (3) *Large Scale Developments*. All development, other than single-family and duplex; or
- (4) *Dedications*. The dedication of any street or alley right-of-way, utility easement, drainage easement, or access easement through any tract of land regardless of the area involved.

**Section 152.100.07. Exemptions**

(A) *Street Widening*. These regulations and development standards shall not apply to the public acquisition by purchase or dedication of parcels of land for the widening or opening of streets or for other improvements.

(B) *Horizontal Property Regime*. These regulations and development standards shall not apply to any horizontal property regime within any lot for which the same documentation as required by state statute to be filed with the County for the establishment of that horizontal property regime shall have been filed with and approved by the City of Tontitown; and where all buildings within that lot shall have been built to meet the fire separation requirements of the City of Tontitown between units, as defined in the Horizontal Property Act of the State of Arkansas.

**Section 152.100.08. Approval Required**

No sub-divider proposing to make or having made a subdivision within the planning area of the City of Tontitown shall proceed with any construction work on the proposed subdivision prior to obtaining approval, and shall not convey title to any lot or lots before obtaining from the Planning Commission a Certificate of Final Plat Approval and the acceptance and filing of said plat with the Washington County Circuit Clerk.

**Section 152.100.09. Amendments**

On any proposed amendments to these regulations, the Planning Commission shall hold a public hearing. Notice of public hearing shall be published in a newspaper of general circulation in the city at least one (1) time, not later than fifteen (15) days prior to the hearing. Following such hearing, the City Council may adopt the amendments as recommended by the Planning Commission or, after further consultation with the Planning Commission, as determined by a majority vote of the City Council.

**Section 152.100.10. Conflicting Regulations**

All ordinances or parts of ordinances inconsistent or in conflict with these regulations are hereby repealed and amended to the extent of such inconsistency or conflict.

**Section 152.100.11. Effective Date**

These regulations shall take effect upon the effective date established in the adoption ordinance approved by the City Council. These regulations shall be made available to the general public. No fewer than three (3) copies of the regulations shall remain on file in the City Clerk's office for examination by the public. These regulations, although adopted by reference, shall subsequently be codified in the municipal code.

**Section 152.100.12. Severability**

Any clause or provision of these regulations declared invalid or unconstitutional by the court shall not affect the validity of the regulation as a whole or any other part of the code thereof. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular subdivision of land, such judgment shall not affect the application of such provisions to any other subdivision of land, not specifically included in such judgment.

**Section 152.100.13. Abrogation and Greater Restriction**

It is not intended by these regulations to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to the law; however, where these regulations impose greater restrictions, the provisions of these regulations shall govern

**Section 152.100.14. Non Liability**

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements and shall be liberally construed in the favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Arkansas Code Annotated



## ARTICLE 152.200 Definitions

Definitions not expressly prescribed herein are to be construed in accordance with the customary usage in municipal planning and engineering practices. Whenever used in this regulation, the word "may" is permissive, while the word "shall" is to be interpreted in its mandatory sense. For the purpose of interpreting this regulation, certain words used herein are defined as follows:

- A -

*AASHTO*: American Association of State Highway and Transportation Officials.

*Abutting*: Having property or district lines in common. Since zoning district lines fall to the centerline of a street, alley, or waterway, lots that appear physically separated abut at said district line.

*Access*: The way or means by which a piece of property is approached or entered.

*Access Easement*: An easement granted by an owner of land to provide access to a lot or parcel not fronting a street or roadway.

*ADA*: Americans with Disabilities Act

*Agent (of City)*: Person with delegated authority for a specific purpose.

*AHTD*: Arkansas State Highway and Transportation Department.

*Alley*: A minor public right-of-way used for utility installations and vehicular access to the back or the side of properties abutting a street.

*Approval, Conditional*: Approval of a plan, plat, or activity by the Commission subject to performance by the applicant of certain stipulated conditions

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*Block*: A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks, drainage channels, or a combination thereof

*Board of Zoning Adjustment*: The Board of Zoning Adjustment considers requests for relief (variances) from certain zoning ordinance provisions, and rules on matters of interpretation associated with the zoning ordinance.

*Bond*: Any form of security including a cash deposit, surety bond or instrument of credit in an amount and form satisfactory to the City.

*Buffer, Perimeter Landscaping*: A continuous area of land set aside along the perimeter of a lot in which landscaping is used to provide a transition between, and reduce the environmental, aesthetic, and other impacts of one type of land use upon another.

*Building Code*: Regulations established by local governments describing the minimum requirements for buildings; includes foundation, roofing, plumbing, electrical, and other specifications for safety and sanitation.

*Building Line*: A line parallel to a lot line establishing an area between it and the lot line where no portion of the building may be erected.

*Building Setbacks*: See Setbacks

*Buffer*: A strip of land established to protect one type of land use from another. A buffer strip is landscaped and kept in open space.

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*Certificate of Completion of Improvements:* A statement by a developer's engineer of record certifying that all improvements and installations are complete and built in conformance with the City's specifications and this subdivision regulation.

*Circuit Clerk:* The Washington County Circuit Clerk

*City:* The City of Tontitown, Arkansas.

*City Staff:* Employees and designees of the City of Tontitown.

*Comprehensive plan:* A composite of the mapped and written proposals, as adopted by the Tontitown Planning Commission and City Council, whether in whole or in part, recommending the physical development of the community. Said plan includes, but not limited to, the Planning Area Map, Land Use Plan, Master Street Plan and Master Street Plan Map for the City of Tontitown, as posted to the Tontitown GIS system.

*City Limits:* The limits of the land area occupied by, and under jurisdiction of the City of Tontitown.

*Commencement of construction:* "Commencement of construction" is defined as "any clearing of the land, excavation, construction, or other substantial action that would adversely affect the natural environment of the site."

*Commission:* The Planning Commission of the City of Tontitown, Arkansas.

*Completion Date of Project:* A date established by agreement between the planning commission and applicant as reached at time of preliminary plat approval.

*Council:* The City Council of the City of Tontitown, Arkansas.

*County:* Washington County, Arkansas.

*Covenant:* A provision in a deed limiting the use of the property and prohibiting certain uses.

*Cul-de-sac:* A street with only one outlet and being permanently terminated within the plat by a vehicular turnaround.

- D -

*DBH:* Diameter at Breast Height.

*Dead End Street:* A street having one end open to traffic and being permanently or temporarily terminated at the opposite end.

*Dedication:* Land and improvements offered to the city and accepted by the city for public use, control and maintenance. Dedications may include streets, alleys, rights-of-way, utility easements, drainage easements, or other easement as appropriate.

*Deed:* A legal document conveying ownership of real property.

*Design Speed:* The maximum safe speed that can be maintained over a specified section of roadway when conditions are so favorable that the design features of the roadway govern.

*Detention Pond:* A stormwater management facility designed to protect against flooding and, in some cases, downstream erosion by storing stormwater runoff for a limited period of time. Water stored by a detention pond is subsequently released at a controlled rate equal to or less than the pre-development runoff rate that the facility is designed to maintain. A detention pond is intended to be dry except during and after stormwater producing events.

*Developer:* That person, firm or corporation undertaking to develop a subdivision or any other type of land development as defined in these subdivision regulations.

*Development:* Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials

*Development Plan:* A drawing showing all proposed improvements to a piece of property including streets, parking lots, buildings, drives, signs, utilities, drainage, and grading by size and location.

*Drainage Easement:* An easement providing for the flow and removal of surface water across a property.

- E -

*Easement:* A grant by a property owner or trustee for the use by the public, a corporation, or certain persons of a strip described area of land for specific purposes.

*Egress:* A means of exit from a property to a public street.

*Engineer:* A registered professional engineer in good standing, and licensed to practice in the State of Arkansas.

- F -

*Federal Emergency Management Agency (FEMA):* The federal agency that, in addition to carrying out other activities, oversees the administration of the National Flood Insurance Program.

*Fire Apparatus Road:* A roadway provided for use by emergency and fire vehicles to access a subdivision from a main artery. Full specifications are provided in the Arkansas Fire Prevention Code.

*Fire Chief:* The appointed official of the City of Tontitown responsible for all functions of the Tontitown Fire Department.

*Fire Marshal:* The Tontitown Fire Chief or his designee, responsible for enforcement of the adopted Fire Prevention Code.

*Final Plat Approval:* Approval of a plat that is in conformance with the preliminary plat along with all required financial guarantees.

*FIRM:* Flood Insurance Rate Map

*Floodplain:* A geographic area susceptible to periodic inundation from overflow of natural waterways and determined as to extent by the Federal Emergency Management Agency (FEMA).

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available.

*Frontage Road:* A street, parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.

*Functional Classification System:* The process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide. (FHWA)

- G -

Not Used

- H -

*Health Department:* The Washington County Health Department and/or Arkansas State Health Department.

*Highway Department, State:* The Arkansas State Highway and Transportation Department.

*Horizontal Datum:* At its most basic level of definition, the horizontal datum is a collection of specific points on the Earth that have been identified according to their precise northerly or southerly location (latitude) and easterly or westerly location (longitude) (National Geodetic Survey, 1986).

*Horizontal Property Regime:* Creation of a condominium project in which co-owners own free interests in units together with fractional interests in general common elements which determines the use to be made of improved land whether or not such improvement is composed of one or more separate buildings of one or more floors or stories.

*Housing Code:* Part of the technical codes adopted by the City of Tontitown.

- I -

*Improvement:* Any betterment of existing conditions of land such as, but not limited to, streets, curbs, gutters, sidewalks, trails, pavement, pedestrian ways, water mains, sanitary sewers, storm sewers, stormwater detention or retention facilities, signs, monuments, landscaping, streetlights, fire hydrants, or other actions resulting in permanent changes in the condition of the land.

*Improvement plans:* The engineering drawings showing types of materials and construction details for the physical structures and facilities, excluding dwelling units to be installed in conjunction with the development of the subdivision.

*Incidental Subdivision:* The subdivision of land that does not require an applicant to go through the complete preliminary and final plat process. Incidental subdivisions include lot splits, informal plats, property line adjustments and correction plats.

*International Fire Code:* This title is used synonymously with the Arkansas Fire Prevention Code.

*Ingress:* A means of entrance to a property from a city street.

*Irrevocable Letter of Credit:* A legal financial instrument in the form approved by the City of Tontitown. The instrument gives the right to a dollar amount to the City to guarantee construction or maintenance of improvements in a subdivision.

--J-

Not Used

K -

Not Used

- L-

*Land Surveyor:* An individual licensed to practice land surveying in the State of Arkansas.

*Land Use Plan:* A written plan with goals and objectives along with a map depicting and describing present land uses and future land uses expected in the City. This plan is approved by the City Council.

*Large Scale Development:* The development of a tract, lot or parcel developed as a single improvement. The term “development” shall include, but not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a revision of land use that results in the need for access and utilities.

*LID:* Low Impact Drainage Design is a method of designing drainage systems or facilities to allow runoff to penetrate the ground in-place instead of concentrating runoff in structures or facilities.

*Lot:* A parcel of land, legally defined in a recorded deed or a recorded plat, fronting on a public street, or other approved means of access. The lot shall not be divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. Said lot shall establish one building site and comply with all subdivision rules and regulations of the City of Tontitown.

*Lot, Double Frontage:* A lot that runs through a block from street to street and having frontage on two non-intersecting streets.

*Lot, Reverse Frontage:* A double frontage lot that is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

*Lot Split:* a subdivision which involves the dividing or redesigning of an existing lot or lots within a block of a recorded subdivision and which does not involve the vacating, widening, narrowing or change of alignment of any thoroughfare, street, alley or easement, or involve improvements required by these regulations.

*Lumen:* A unit of measure of the intensity of light produce by a lamp (bulb) as indicated by the manufacturer.

- M -

*Master Street Plan:* The plan made and adopted by the Planning Commission and accepted by the City Council classifying certain streets within the planning area as arterial or collector streets.

- N -

*NWARPC:* The Northwest Arkansas Regional Planning Commission.

- O -

*Outdoor Light Fixtures, (Outdoor Lighting):* An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for: buildings and structures; recreational areas; parking lot lighting; landscape lighting; architectural lighting; product display area lighting; building overhangs; open canopies; and security lighting.

*One Hundred (100) Year Flood:* A flood with 1 % chance of occurring in any year. The term is misleading because of its statistical derivation. A “100 year flood” may occur many times in any given 100 year period, or it may not occur at all in 100 years.

*Out Lots:* Parcels or tracts of land proposed as part of a large scale development for future use or development, or as part of a subdivision as non-conforming lots dedicated for stormwater detention, public uses, or use by a property owners association but not available for building purposes.

- P -

*Parcel:* A division of land in contiguous ownership.

*Paved Width:* The portion of a street available for vehicular traffic; where curbs are laid, it is the distance from back of curb to back of curb.

*Paving:* A substance which is concrete, asphalt, asphaltic seal coat over rock base, or any other approved quality paving material.

*Pedestrian Accommodation:* To provide continuous pedestrian travel, segregated from vehicular traffic, within the subdivision and the subdivision boundary.

*Performance Bond or Guarantee:* Any security which may be accepted in lieu of a requirement that certain improvements be made before the planning commission approves a final plat, including performance bonds by subdividers or improvement contractors, escrow agreements, letters of credit, and other similar collateral or surety agreements.

*Planning Area, Map or Boundary:* The area within the City’s territorial jurisdiction for which the planning commission has determined it will prepare plans and recommend ordinances and regulations; same being the Tontitown Planning Area. The planning area shall be the area in which provisions of Tontitown’s Subdivision Regulations shall apply.

*Planning Commission:* The Planning Commission of the City of Tontitown.

*Planning Official:* The staff person having overall responsibility for administering these regulations.

*Plat:* A map or chart indicating the subdivision or re-subdivision of land, intended to be filed for record.

*Plat, Correction:* A correction to an existing plat that is necessary due to an incorrect legal description or scribner errors.

*Plat, Final:* A finished drawing showing completely and accurately all legal and engineering information and certifications necessary for recording, and includes the bill of assurance, if applicable.

*Plat, Preliminary:* A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspect, but is not in final form for recording and the details are not completely computed.

*Plat, Sketch:* An informal plan of the proposed subdivision to be submitted by the developer during the pre-application process, the purpose being to acquaint the developer with city plans and policies relevant to the proposed subdivision.

*Pre-Application Conference:* A meeting between planning officials and a developer to give the developer an opportunity to obtain advice concerning a proposed development or subdivision to avoid unnecessary costs or delays, and to obtain informal guidance to prevent conflicts. This conference takes place before submission of the formal application for approval of a plan or a preliminary plat.

*Private Street:* A street or roadway that is privately owned and maintained, and has not sought public funding in the past for the maintenance of said road. Private roads will not prohibit access by any police, emergency, utility, or other service vehicles.

*Property Line Adjustment:* A transfer or adjustment of a property line that does not create a separate, new lot. A property line adjustment may or may not dedicate right-of-way or utility easements.

*Protective Covenants:* Property restrictions established by the sub-divider and recorded with the Final Plat of the subdivision.

*Public Utility:* A public or private business organization, subject to governmental regulation, that provides an essential commodity or service, such as water, sewer, natural gas, electricity, transportation, or communication, to the public.

-Q-

*Quorum Court:* The Washington County Quorum Court (13 Justices of Peace elected by district).

- R -

*Replat:* The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision.

*Re-subdivision:* Re-subdivision is the changing of any existing lot or lots of any subdivision plat previously recorded with the County Circuit Clerk. Re-subdivision includes new townhouse or condominium projects, and the conversion of rental townhouses or condominiums into private ownership. Re-subdivision also includes lots, parcels, units and real property converted to time-share units or estates.

*Retention Pond:* A stormwater management facility designed to protect against flooding and, in some cases, downstream erosion by storing additional water in the form of stormwater runoff for a limited period of time. Additional water stored by a detention pond is subsequently released at a controlled rate equal to or less than the pre-development runoff rate that the facility is designed to maintain. A retention pond is designed to retain water at all times and is sometimes referred to as a “wet” detention pond.

*Right-of-Way:* The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat. Every right-of-way is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots. Rights-of-way intended for streets, trails, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency or utility company, shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

- S -

*Setbacks, Building:* Lines imposed on each lot or parcel where the placement of structures is restricted.

*Sketch Plans:* See Plats, Sketch

*Staff:* Employees and designees of the City of Tontitown.

*Street:* A general term denoting a public or private thoroughfare that affords the principal means of access to abutting property. The term includes all facilities that normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, road, throughway, pike, avenue, boulevard, land, place, court, but shall not include an alley or a pedestrian way. For the purpose of this chapter, streets shall be classified as follows:

- (1) *Arterial streets*: Those streets designated as arterial, major and minor, on the Tontitown Master Street Plan.
- (2) *Collector streets*: Those streets designated as collector and sub-collector streets on the Master Street Plan.
- (3) *Residential Streets*: Streets that are used primarily for access to abutting properties.
- (4) *Loop streets*: Minor streets that begin from one minor street and curve to end on the same minor street.
- (5) *Cul-de-sac*: Short local streets having one end open to traffic and being permanently terminated at the other end by a circular area which permits vehicles to turn around without having to stop and back up.
- (6) *Dead-end streets*: Those streets that have terminated at one end where vehicles must stop and back up in order to turn around.

*Street, Existing*: Any street that has a minimum width of eighteen (18) feet of hard surfaced material. Gravel roads or roads which are in extremely poor condition will not qualify as an existing street for purposes of this regulation.

*Street Width*: the width of the street used for traffic or when curbs are used the distance from back of curb to back of curb.

*Structure*: Anything inanimate constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including roof overhangs, carports, garages, porches, and other similar structures.

*Subdivider*: Any person dividing or proposing to divide land so as to constitute a subdivision and includes any agent of the subdivider.

*Subdivision*: Subdivision is the division of any parcel of land into separate parcels, lots, units or building sites for the purpose (whether immediate or future) of sale or building development

*Subdivision, Minor*: A subdivision of land into five (5) or less lots, parcels or other divisions.

*Surveyor*: See Land Surveyor.

*Swale, Drainage*: A shallow trough-like depression that carries water mainly during rainstorms.

- T -

*Territorial Jurisdiction*: The territory surrounding the city, as defined in State planning statutes, within which the City's planning area is constrained.

*Tract*: A specified or limited area of land, normally measured by a metes and bounds description.

- U -

*Use*: The purpose for which land or a building is designed, arranged, or intended, or for which either is, or may be, occupied or maintained.

*USGS*: United States Geological Survey

*Utility Easement*: a grant by a property owner or trustee for the use by the public, a corporation, or certain persons of a described area of land by public or private utilities.

- V -

*Variance*: An official dispensation to act contrary to a zoning regulation.



*Vacation*: Legal abandonment of a platted street right-of-way or easement.

*Vertical Datum*: Used to measure heights given on maps. The starting point for measuring these heights are Mean Sea Level points established at coastal places.

- W -

*Waiver*: Permission from the Planning Commission to depart from certain requirements herein.

*Watercourse (Wet or Dry)*: A running stream of water having a bed and banks; or the easement one may have in the flowing of such a stream in its accustomed course. A watercourse may sometimes be dry.

- X -

Not used.

- Y -

Not used.

- Z -

*Zoning Ordinance*: Laws that control the use of land within the City.

**ARTICLE 152.300 Administration and Enforcement**

Section 152.300.01. Administration .....

Section 152.300.02. Enforcement.....

Section 152.300.03. Violation and Penalty.....

Section 152.300.04. Waivers .....

Section 152.300.05. Vacation of Plats .....

Section 152.300.06. Vacation of Street Right-of-Way, Easements, or Alleys .....

Section 152.300.07. Appeals .....

Section 152.300.08. Assurance of Performance .....

Section 152.300.09. Maintenance Guarantee .....

Section 152.300.10. Guarantees.....

Section 152.300.11. Off-site Performance Guarantee .....

**Section 152.300.01 Administration**

- (A) These rules and regulations shall be administered by the Planning Commission and the City staff. The Commission may, from time to time, recommend instructions and operating procedures to be followed in the administration of these regulations to the end that the public may be better informed and that approval of plats be expedited.
- (B) In addition to the requirements established herein, all subdivision plats shall comply with all other, current and future, applicable rules, regulations and laws including but not limited to the Tontitown Land Use Plan, the Master Street Plan, and the Tontitown Zoning Ordinance, building and housing codes, and any other regulations adopted by the City Council, and any regulations or special requirements of the State Health Department, State Highway & Transportation Department, or other appropriate State agencies.

**Section 152.300.02 Enforcement**

- (A) It shall be the duty of the City's staff to enforce these regulations and to bring to the attention of the Planning Commission, Mayor, City Council, and the City Attorney any violation or lack of compliance herewith.
- (B) *Building Permits.* The City staff shall not issue building permits for any structure on any lot in a subdivision for which the plat or plan has not been approved and recorded in the manner prescribed herein.
- (C) *Plat Approval.* No plat of any tract of land within the Planning Area jurisdiction shall be accepted by the Washington County Circuit Clerk for filing of record unless the plat has been approved by the Planning Commission, and bears the signature(s) of the proper City Official(s).
- (D) *Compliance.* No conveyance by metes and bounds of tracts or lots coming under the definition of subdivision of land without compliance with the applicable provisions of this regulation or amendments thereto shall be permitted. No dedication of streets shall by itself be accepted by the City unless the usage of the adjoining affected land is shown. If the purpose of the opening of the street is to make the affected land available for sale as a redevelopment or subdivision, the street may not be accepted until accompanied by the required plat, and all improvements are completed and accepted by the appropriate agencies.
- (E) *Utilities.* No public utility whether publicly or privately owned shall provide, extend or authorize the extension of service to any lot, building, structure, or location within the area under the jurisdiction of the City of Tontitown and its planning area unless:
  - (1) *Prior establishment.* A lot, building or structure was established before the adoption of these regulations; or
  - (2) *Approval.* A plat of the location has been approved by the Planning Commission and filed and recorded in the office of the Washington County Circuit Clerk.
  - (3) Notwithstanding the above provisions, nothing herein shall prevent a citizen of Tontitown, other than a subdivider in violation of these regulations, from obtaining a building permit, final inspection, utility service or any other administrative service or remedy, upon the following conditions:
    - (a) Where the lot for which the administrative permit or service sought lies within a subdivision which fails to conform with the requirements of these regulations

- and such nonconformity was known to the Planning Commission or city staff, and no action to enforce the requirements of this ordinance was initiated by requesting an injunction in a court of competent jurisdiction within six (6) months of acquiring knowledge of the alleged violations or nonconformity; or,
- (b) Where the lot for which the administrative permit or services sought lies within a subdivision that was located in the planning area boundary, but outside the city limits at the time of filing.
- (4) The issuance of any building permit does not constitute acceptance of or intent by the City to accept any streets providing access to the lot on which the permit is issued.

**Section 152.300.03 Violation and Penalty**

**(A) Procedures.**

- (1) When, in the opinion of city staff, a violation of the subdivision ordinance exists, and a subdivider who has not complied with the requirements and procedures set forth herein attempts to proceed with construction work, or attempts to convey title to any lot or lots before obtaining final plat approval, or otherwise is in substantial violation of these regulations, the appropriate city staff shall, within fifteen (15) days of becoming aware of a possible violation, issue a written order to the alleged violator.
- (2) Said written order shall be by certified mail, restricted delivery, and shall set out the specific violations alleged.
- (3) City staff shall also, at the time of issuance of the written order, give notice to the City Attorney of such action.
- (4) If the alleged violator, within seven (7) days of receipt of said order, does not cease and desist from activities not in conformance with these regulations, the city staff shall, within seven (7) additional days, transmit to the City Attorney an affidavit setting out the nature of the violation.
- (5) The City Attorney shall take appropriate measures to enforce these regulations, including but not limited to, seeking injunctive relief from a court of competent jurisdiction.

**(B) Penalties.**

- (1) Any person, firm or corporation that violates any provision of these regulations or amendments thereto shall be guilty of a misdemeanor and on conviction shall be fined not less than \$50.00 nor more than \$250.00 for each offense.
- (2) Each day that any violation of these rules and regulations are in effect shall constitute a separate offense and be subject to additional fines.
- (3) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premise, and these remedies shall be in addition to the monetary penalties described above.

### **Section 152.300.04 Waivers**

#### (A) General.

- (1) When, by the strict interpretation of these regulations, an applicant incurs undue restrictions on the physical property to be subdivided, a waiver for such requirements may be granted by the Planning Commission.
- (2) Under no circumstance should a waiver be granted because of a personal hardship or for personal or emotional reasons. Waivers shall not be granted based strictly on financial hardship.
- (3) A waiver is determined by the strict interpretation and enforcement of the rules and regulations upon a given piece of property to be subdivided.

#### (B) *Procedures.*

- (1) No waiver shall be granted except upon written petition by the applicant when the application is filed. Under exceptional circumstances, the Planning Commission may grant waivers at the time of final plat approval. The petition shall state fully the grounds for the waiver and all the facts upon which the petition is made.
- (2) In granting the waiver, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable in the public interest.
- (3) In considering the petition for a waiver, the Planning Commission shall take into account the nature of the proposed use of land involved, existing uses of land in the area, proximity to public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity.
- (4) The findings of the Planning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning Commission meetings at which such waiver is granted. Waivers may be granted only when in harmony with the general purpose and intent of these regulations.
- (5) No waiver shall be granted unless the Planning Commission finds all of the following:
  - (a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land.
  - (b) That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.
  - (c) That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.
  - (d) That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.

### **Section 152.300.05 Vacation of Plats**

(A) *Vacation prior to lots being sold.* Any plat or any part of a plat may be vacated by the owner of the premises at any time before the sale of any lot therein by written instrument to which a copy of such plat shall be attached declaring the same to be vacated. Vacation of a plat shall be subject to the

approval of the City Council if the plat is located within the corporate limits. It will be subject to Quorum Court approval if located outside the corporate limits, but within the Planning Area.

- (B) *Approval by Planning Commission.* Such an instrument shall be approved by the Planning Commission with the same plat submission requirements, review processes and fees as are required for plats of subdivisions. Between the preliminary plat and the final plat, the Planning Commission will be afforded the opportunity for review and may reject any such plat that destroys public rights in any of its public uses, improvements, streets or alleys.
- (C) *Filing and recording.* Such an instrument shall be executed, acknowledged or approved and recorded or filed in like manner as plats of subdivisions. Being duly recorded or filed shall operate to destroy the force and effect of the recording of the original plat so vacated and to divest all public rights in the streets, alleys, and public grounds and all dedications laid out or described in such plat.
- (D) *Vacation, after lots are sold.* When lots have been sold, the plat may be vacated in a manner herein provided by all the owners of lots in such plat joining in the execution of such writings.

#### **Section 152.300.06 Vacation of Street Right-of-Way, Easements, or Alleys**

- (A) *Application for Easement/Alley Vacation.* The application shall be submitted to city staff pursuant to the filing schedule approved by the planning commission and shall consist of the following:
  - (1) *Application.* Completed and signed application form as provided by the appropriate city official or city staff.
  - (2) *Fee.* Pay the filing fee specified in the application forms.
  - (3) *Petition.* A petition to vacate street right-of-way, alley or easement.
  - (4) *Consent for Property Owners.* Written consent of all property owners abutting the street right-of-way, alley or easement to be vacated.
  - (5) *Ownership.* Proof of ownership of all property abutting the street right-of-way, alley or easement to be vacated.
  - (6) *Consent from Utilities.* Written consent from all utilities affected by street right-of-way, alley or easement to be vacated.
- (B) *Review and Approval.* The appropriate city staff will review the request and recommend approval or denial of the request for a vacation. The City Council shall make the final determination on approval of vacations by adopting an ordinance stating that the legal description as provided by the applicant, and verified by the city, is vacated.

#### **Section 152.300.07 Appeals**

Appeals of interpretations of the Subdivision Regulations may be made to the Tontitown Planning Commission.

#### **Section 152.300.08 Assurance of Performance**

- (A) When the owner/developer requests final plat approval under the requirements contained in Section 152.500.01(B) Improvements Substantially Complete, the owner/developer shall enter into an agreement with the City to guarantee installation or ensure the completion of improvements. The Planning Commission may accept the subdivision and issue a Certificate of Final Plat approval

subject to all requirements of these regulations, and upon providing one of the following guarantee requirements or financial instruments:

(1) *Cash Deposit.*

- (a) The subdivider may provide a cashier's check in the amount as determined by the engineer-of-record and agreed upon by the City's Engineer and Planning Commission at 125% of the estimated amount to complete the improvements and installations to comply with these rules and regulations.
- (b) The check shall be cashed one (1) year from date of approval unless improvements are completed.
- (c) For improvement completion that takes over one (1) year, an extension must be approved by the Planning Commission if found reasonable.
- (d) If the extension is not approved, the check amount, in full, will be payable to the City at the end of the year.

(2) *Irrevocable Letter of Credit.* The subdivider may provide an irrevocable letter of credit to the City of Tontitown pursuant to the following conditions:

- (a) The letter of credit will be for an amount equal to 125% of the estimated cost for improvements as determined by the engineer-of-record and agreed upon by the City Engineer and Planning Commission.
- (b) The letter of credit will be irrevocable and will list the City of Tontitown as the sole beneficiary.
- (c) The letter of credit will be in a form approved by the City Attorney.
- (d) The City, as the sole beneficiary, shall be entitled to payment upon making demand for payment under the terms of the letter of credit in the event the subdivider is in default. Further, the City shall be entitled to use all of the money secured by the letter of credit to assure the cost of completion of the work in the subdivision.
- (e) The subdivider will not be entitled to any excess monies until the work in the subdivision has been completed.
- (f) The terms of the letter of credit shall be limited to a time specified, not to exceed one (1) year, unless extension is granted by the Planning Commission. If the extension is not approved, the amount of the letter of credit shall be payable in full to the City.
- (g) The letter of credit extension shall provide all costs incurred by the project and related inflation costs

**Section 152.300.09 Maintenance Guarantee**

(A) No less than one (1) year's maintenance by the developer shall be assured prior to the filing of a plat. One of the following methods, dependent upon the method utilized, in Section 152.300.08 Assurance Of Performance, must be followed:

(1) *Certificate of Completion of Improvements.* If a certificate of completion of improvements is submitted prior to filing of the final plat, a maintenance bond or letter or credit must also be submitted to the City prior to the filing of the final plat. The maintenance bond, cash deposit or letter of credit must meet the following conditions:

- (a) It must be in an amount of 25% of the value of the donated assets. The value of the donated assets shall be as estimated by the engineer-of-record and agreed upon by the Planning Commission.
- (b) It must be irrevocable and shall list the City of Tontitown as sole beneficiary.
- (c) It must be in a form approved by the City Attorney.
- (d) It must run for no less than one (1) year.
- (e) At the end of one (1) year, if the improvements have not been adequately maintained, as determined by the city staff after consultation with the City's engineer, the city shall be entitled to payment upon making demand for payment under the terms of the maintenance bond, cash deposit or letter of credit. The City shall be entitled to use all of the money secured by the maintenance bond, cash deposit or letter of credit to assure the proper maintenance of the improvement.
- (f) The subdivider shall not be entitled to any excess monies until the maintenance of the improvements in the subdivision has been satisfactorily completed.

(2) *Performance Bond.*

- (a) If a performance bond is posted to assure completion of the improvements, that performance bond must also include provisions that automatically convert it to a maintenance bond upon completion of the improvements or on the date the performance bond lapses, whichever comes first.
- (b) Such maintenance bond shall meet all the conditions in Certificate of Completion of Improvements listed in Section 152.300.09(A) (1) above.

(3) *Cash Deposit.*

- (a) If a cashier's check is provided to assure completion of the improvements, that cashier's check shall be cashed upon completion of the improvements or one (1) year from submittal, whichever comes first.
- (b) Upon completion of the improvements, a sum in the amount of 25% of the value of donated assets shall be held by the City of Tontitown for a period of one (1) year to assure proper maintenance. Any amount above this sum shall be returned to the provider of the cashier's check.



(c) At the end of one (1) year, this sum shall be used to perform needed maintenance. Any amount not needed for proper maintenance, as determined by city staff, after consultation with the City's engineer, will be returned to the provider of the cashier's check.

(4) *Irrevocable Letter of Credit.*

(a) If an irrevocable performance letter of credit is posted to assure completion of the improvements, that letter of credit shall include provisions that automatically convert if to an irrevocable maintenance letter of credit upon completion of the improvements or on the date the performance letter of credit lapses, whichever comes first.

(b) Such maintenance letter of credit shall meet all conditions in Certificate of Completion of Improvements, Section 152.300.09(A).

(c) When the city staff has received notification that one of the heretofore described mechanisms assuring completion of the improvements have been executed, the Planning Commission may certify final plat approval.

**Section 152.300.10 Guarantees**

Prior to final plat approval, the owner/developer shall enter into an agreement with the City to guarantee installation or ensure the completion of improvements. The City will accept the subdivision and issue a Certificate of Final Plat approval subject to the following guarantee requirements:

(A) *Amount.* The owner/developer shall provide a cashier's check to the City of Tontitown for an amount 150% of the total estimated cost for improvements as approved by the Building Official or his or her designee(s).

(B) *Term.* The cashier's check shall be deposited immediately. The owner/developer shall have a maximum of 60 days to complete the improvements, unless an extension is granted by the Building Official or his or her designee(s).

(C) *City Action.* If the improvements have not been completed within the terms provided for in B. Term above, the City may take one of the following actions:

1. Construct the remaining improvements using the amount of the cashier's check. Any balance remaining after the improvements have been constructed shall be returned to the owner/developer. The owner/ developer shall be liable for any cost exceeding the amount of the cashier's check; or,
2. Continue to hold the funds until the owner/developer completes the required improvements.

(D) *Release of Guarantee*

1. *Certificate of Completion.* To request a release of a guarantee, the owner/developer's engineer of record shall submit a certification of completion to the City Engineer or his or her designee(s) that the development is complete and functional.

2. *Final Inspection.* The City Engineer shall conduct a Final Inspection of remaining guaranteed items. The Final Inspection must be approved prior to releasing the guarantee.
3. *Guarantee Released.* Guarantee released and the City shall reimburse the owner/developer for the amount of the cashier's check.

**SEC. 152. 300.11 Off-Site Performance Guarantee**

At or prior to the preconstruction conference with the City, the owner/developer shall provide to the Building Official, or his or her designee(s), a performance guarantee for off-site improvements meeting the following criteria:

- (A) *Amount.* The owner / developer shall provide a letter of credit or a cashier's check to the City of Tontitown for an amount 100% of the total estimated cost for improvements within the public right-of-way and any off-site improvements. The cost estimate shall be prepared by the owner / developer's engineer of-record and approved by the Building Official or his or her designee(s).
- (B) *Term.* The term of the performance guarantee shall be agreed to in writing by the owner/developer's engineer-of-record and by the Building Official or his or her designee(s).
- (C) *Letter of Credit Standards.* Performance guarantee letter of credits shall be irrevocable and shall list the City of Tontitown as the beneficiary. The letter of credit shall be in a format as provided by the City or as approved by the Staff Attorney or his or her designee.
- (D) *Cashier's Check.* The cashier's check will be deposited immediately.
- (E) *City Action.* Prior to expiration of the term agreed to in subsection B above, the City shall inspect the improvements. If the improvements are not complete to the City's satisfaction, the owner / developer or engineer of record may request in writing an extension. If the City does not agree to the extension, the City may construct the remaining improvements using the amount of the cashier's check or letter of credit. If the improvements are complete, the City shall release the performance guarantee in accordance with Subsection H.
- (F) *Excess Monies.* The owner / developer shall not be entitled to any excess monies until the off-site improvement has been completed and the performance guarantee is released in accordance with subsection H.
- (G) *Excess Costs.* The owner / developer shall be liable for any cost exceeding the amount of the cashier's check or letter of credit.
- (H) *Release of Performance Guarantee.*
  1. *Certificate of Completion.* To request a release of a performance guarantee, the owner / developer's engineer-of-record shall submit a certification of completion to the City Engineer or his or her designee(s) that the development is complete and functional.
  2. *Final Inspection.* The City Engineer or his or her designee(s) shall conduct a Final Inspection of the off-site improvement. The Final Inspection must be approved prior to releasing the performance guarantee.
  3. *Guarantee Released.* The performance guarantee is released and the City shall reimburse the owner / developer for the amount of the cashier's check or return the letter of credit to the owner/developer.

**ARTICLE 152.400 Preliminary Plats**

Section 152.400.01. Applicability .....

Section 152.400.02. Pre-Application Conference.....

Section 152.400.03. Application for Approval.....

Section 152.400.04. Review and Approval .....

Section 152.400.05. Review Criteria .....

Section 152.400.06. Authorization to Proceed .....

Section 152.400.07. Expiration of Preliminary Plat Approval .....

**Section 152.400.01 Applicability**

- (A) Any owner of land within the Planning Area boundary of the City of Tontitown seeking to subdivide property shall not proceed with any construction work on the proposed subdivision before obtaining Preliminary Plat approval nor shall the owner attempt to record the plat of the subdivision or any part thereof, including conveyance of title to any lot, prior to obtaining Final Plat approval from the Planning Commission.

**The conditions above shall also apply to lot splits and minor subdivisions, as defined in Section 600.01 (B).**

**Section 152.400.02 Pre-Application Conference**

- (A) *Purpose.* The purpose and intent of the pre-application conference is to afford the sub-divider an opportunity to obtain the advice of the Planning Commission, the City Council, or their designee in order to avoid unnecessary costs and delays to the sub-divider and to give informal guidance to the development at a stage where potential points of conflict or differences can be readily resolved.
- (B) *Optional.* When the owner of a tract of land proposes its subdivision, the sub-divider is urged to discuss informally the intent of his subdivision with the Planning Commission, the City Council, or their designee.
- (C) *Fees.* No fees shall be collected for a pre-application conference, its purpose being to acquaint the sub-divider with plans and policies in effect that may be significant to his proposed subdivision.
- (D) *Sketch Plans.* The sub-divider shall submit sketch plans and data showing existing conditions within the site and its vicinity and the proposed layout and development of the proposed subdivision. The sketch plan shall include the following information, all of which may be based on sources of information other than field survey data:
  - (1) The location of the tract in relation to the surrounding area.
  - (2) The total acreage in the proposed subdivision.
  - (3) All existing streets, roads, wet and dry watercourses, and other significant features of the tract within five hundred (500) feet thereof.
  - (4) Approximate location of proposed streets and property lines.
  - (5) An accurate sketch of the proposed site plan.
  - (6) A north arrow and graphic scale.
  - (7) Direction of and approximate distance to nearest existing major street intersection.
  - (8) Existing utilities and easements, if any.
  - (9) Proposed land use descriptions.
  - (10) Existing adjacent development.
  - (11) Existing easement and covenants affecting the tract or parcel.
  - (12) Any additional information the developer wishes to provide to give greater clarification and understanding of the development and its proposed use.
- (E) *Discussion.* At the pre-application conference, the general character of the development will be discussed and items including zoning, utility services, street requirements, flooding and drainage,

and other pertinent factors related to the proposed development will be reviewed. Discussions at the pre-application conference shall not imply any approval of subsequent preliminary or final plat approval, rather to serve as an exchange of information.

### **Section 152.400.03 Application for Approval**

- (A) The application shall be submitted to the City Council's designee pursuant to the Tontitown Development Calendar and shall consist of the following:
- (1) *Application.* A Letter of Intent along with a completed application form, as provided by the Planning Commission or the City Council's designee.
  - (2) *Fee.* Payment of the filing fee as specified in the application or schedule of fees.
  - (3) *Preliminary Plat.* The number of copies of the preliminary plat as indicated on the application packet that includes all the requirements for a preliminary plat indicated in Article 152.800, Plat and Plan Requirements. The preliminary plat shall be drawn clearly and legibly at a scale not smaller than 1" = 100'. A digital copy will be required after approval.
  - (4) *Drainage Report.* Submit drainage report, grading plan and erosion control plan. Drainage report shall be completed by a professional engineer and demonstrate compliance with Tontitown Stormwater Requirements.
  - (5) *Deed.* Copy of warranty deed showing ownership of property.
  - (6) *Recorded Plat.* Copy of recorded plat of existing development, if any

### **Section 152.400.04 Review and Approval**

- (A) *Administrative Review and Approval*
- (1) The City Council's designee and other appropriate City and Public Agency Staff shall review the proposed subdivision for conformance with these regulations.
  - (2) In its review, the City Council's designee shall take into consideration the requirements of the community and the use of the land being subdivided and may offer suggestions concerning changes needed that would enable the project to meet the purpose and intent of the subdivision regulations.
  - (3) Particular attention shall be given to width, arrangement and location of streets, utility easements, drainage, lot sizes and arrangements and other facilities such as parks, playgrounds or school sites, public buildings, parking areas, and the relationship of the proposed subdivision to adjoining, existing, proposed and possible subdivision of lands.
  - (4) Comments will be sought from Washington County officials who may provide recommendations as applicable to development within the Tontitown Planning Area but outside the City limits.
- (B) *Other City Departments.* The City Council's designee may distribute copies of the preliminary plat to other city departments and officials with the request that its recommendations for either approval

or disapproval be provided in writing. Such recommendations shall be given to the Planning Commission.

(C) *Planning Commission Action.*

- (1) *Changes or Additions.* After the Planning Commission has reviewed the Preliminary Plat and taken into account any staff recommendation, the applicant shall be advised of any required changes and/or additions.
- (2) *Action.* The Planning Commission shall approve, approve conditionally, or disapprove the Preliminary Plat within one hundred (120) days from the date of receipt thereof or the Preliminary Plat shall be deemed approved unless the sub-divider stipulates in writing to the Planning Commission that additional time is allowed. If disapproved, the Preliminary Plat shall be returned to the sub-divider with a written statement as to the reasons for disapproval.
- (3) *Disapproval.*
  - (a) A disapproved preliminary plat may be resubmitted. The plat shall be submitted for review as outlined in this regulation for an original preliminary plat submission.
  - (b) The City Council's designee may forego those steps in the review process of a resubmitted plat found to be entirely repetitive of the disapproved plat.

**Section 152.400.05 Review Criteria**

- (A) The preliminary plat may be approved by the Planning Commission when the applicant has provided clear and convincing evidence that:
- (1) *Water.* Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, fire protection, and quality to provide an appropriate supply of water for the type of subdivision proposed. The applicant shall provide verification of approval from the State Department of Health or governing utility.
  - (2) *Sewer.* If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state and local laws and regulations. The applicant shall provide verification of approval from the State Department of Health or governing utility.
  - (3) *Special Precautions.* All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the sub-divider and that the proposed uses of these areas are compatible with such conditions.
  - (4) *Transportation.*
    - (a) The existing transportation system is adequate to accommodate the traffic to be generated by the subdivision. The Planning Commission may require, as part of plat approval, a traffic study, prepared by professional traffic engineer and paid

for by the developer, demonstrating that existing streets can handle the proposed traffic. The City also may require that the developer provide plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed development.

- (b) If the traffic study indicates that the development will create more demand than the existing transportation system can accommodate, the developer shall show that it will make appropriate off-site improvements to meet the increase in demand and capacity.
  - (c) The City reserves the right to hire an independent consultant to verify the findings of the original study.
- (5) *Testing Verification.* The City may require borings and soundings be made in specific areas to ascertain subsurface conditions where proposed subdivision will *not be served by Public* sanitary sewer service. The data will be submitted to the Arkansas Department of Health when obtaining approval of the subdivision sanitary facilities.
- (6) *Mitigation.* The developer has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
- (7) *Design Standards.* The plans must meet the requirements of Article 152.1000, Design Standards.

#### **Section 152.400.06 Authorization to Proceed**

- (A) Receipt of an approved or conditionally approved copy of the Preliminary Plat, together with an approved copy of the Improvements Plan shall constitute authorization of the Planning Commission for the subdivider to proceed with the installation of improvements and the staking out of lots and blocks. The sub-divider, after conditional approval of the Preliminary Plat, shall complete all improvements required under this regulation prior to filing a final plat application.

#### **Section 152.400.07 Expiration of Preliminary Plat Approval**

- (A) *Expiration.* The preliminary plat approval shall automatically expire one (1) year from the original date of approval and further development work will require approval of another Preliminary Plat. An approved preliminary plat conditioned upon the developer completing a list of deficiencies shall also be considered to be null and void should the list of deficiencies in its entirety not be completed within the designated six (6) month period from the date of preliminary plat approval.
- (B) *Extensions.* If at the end of the expiration time approved in subparagraph A. above for the Preliminary Plat, the sub-divider submits a written request for extension of the preliminary approval, the Planning Commission may grant an extension of up to twelve (12) additional months providing, in the opinion of the Planning Commission, sufficient work has been completed with respect to the required improvements on the property. No more than one extension shall be granted.

**ARTICLE 152.500 Final Plats**

Section 152.500.01. Applicability .....

Section 152.500.02. Application for Final Plat.....

Section 152.500.03. Prior to Planning Commission.....

Section 152.500.04. Review and Approval .....

Section 152.500.05. Inspections .....

Section 152.500.06. Recording.....

Section 152.500.07. Application for Building Permit .....

Section 152.500.08. Criteria for Substantial Completion (Non-Bondable Items).....

Section 152.500.09. Criteria for Guarantees (Bondable Items).....



### **Section 152.500.01 Applicability**

An application for Final Plat approval may be submitted for Planning Commission approval when one of the following requirements is met:

- (A) *Improvements Complete.* The Final Plat of the proposed subdivision or an approved phase may be submitted to the Planning Commission for final approval at the time of completion of improvements shown on the preliminary plat.
  - (1) *Certificate of Completion.* The owner/developer's engineer-of-record submits a statement certifying that all improvements and installations to the subdivision required for its approval under the terms of these regulations have been made, added, or installed in accordance with city specifications.
  - (2) *Final Inspection.* The City Council, Planning Commission, or their designee(s) conducts and certifies a Final Inspection.
- (B) *Improvements Substantially Complete.* When the subdivision is substantially complete, as provided for in Section 152.500.08 Criteria for Substantial Completion, and owner/developer guarantees completion of the remaining items, as provided for in Section 152.500.09 Criteria for Guarantees, in accordance with Section 152.300.08 Assurance of Performance, the final plat may be submitted for final approval.

### **Section 152.500.02 Application for Final Plat**

- (A) When the requirements of these regulations have been satisfied and while the Preliminary Plat Approval is in effect, the owner/developer shall submit to the Planning Commission an Application for Review and Approval of the Final Plat pursuant to the Tontitown Development Calendar which shall consist of: Application. A completed application requesting review and approval of the Final Plat.
  - (1) *Plat.* The Final Plat in the number of prints as indicated on the application form, with all items required for a Final Plat as provided for in Article 152.800 Plat and Plan Requirements, and other documents as specified in *the application*.
  - (2) *Fee.* Payment of the filing fee as specified in Final Plat application or schedule of fees.
  - (3) *Digital copy.* The owner/developer must submit with an application for Final Plat approval, the proposed Final Plat in digital form with all information in AutoCAD (DWG) format on CD. Information shall include property boundary, lot lines, easements, building setbacks, rights-of-way, street widths, pre-addresses, street names, arc radius, arc distance, and any other information that the Planning Commission may require. Line and curve data shall have bearing and distance chords. Questions concerning this requirement may be directed to the City Engineer or the City Council's designee.
  - (4) *Donated Assets.* Approved estimate of donated assets, broken down by improvement type (streets, water, electric, sewer, drainage, and sidewalks), as prepared by the Engineer-of-Record and approved by the City Engineer, or City Council's designee.

**Section 152.500.03 Prior to Planning Commission**

- (A) *Maintenance Assurance.* The owner/developer shall submit a financial instrument that assures maintenance of the donated assets in accordance with the requirements in Section 152.300.09 Maintenance Guarantee no later than 12:00 pm the Friday before the Planning Commission meeting at which the final plat will be reviewed.
- (B) *Guarantee of Improvements.* If improvements are substantially complete, the owner/developer shall submit a financial instrument in accordance with the requirements set forth in Section 152.300.08 Assurance of Performance no later than 12:00 pm the Friday before the Planning Commission meeting at which the final plat will be reviewed.

**Section 152.500.04 Review and Approval**

- (A) *Planning Commission Action.* The Planning Commission shall approve or disapprove the Final Plat within sixty (60) days of receipt of the application. Disapproval of the plat shall be transmitted to the owner/developer with the reasons therefore within a reasonable time (not to exceed two weeks) after the meeting at which the plat was disapproved. Approval of the Final Plat by the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.
- (B) *City Council Action.* City Council approval of the Final Plat shall provide for the acceptance of right-of-way dedications. City Council approval and filing of the final plat for record constitutes the acceptance by the public of dedications and improvements including any instruments of surety provided as a condition of final plat approval. City Council approval will be referenced by the City Council's designee.

**Section 152.500.05 Inspections**

- (A) *Inspections Required.* All projects shall be constructed according to the plans and specifications reviewed and approved by the City. Inspections shall be made periodically by the City in accordance with other applicable ordinances. The City, or its designated agents, may inspect those facilities, improvements and installations for conformance with plans and specifications. Any improvements where post installation inspections methods cannot ascertain whether proper methods or materials were employed may require resident on-site inspection during installation at the sole cost of the developer.
- (B) *Defects and Deficiencies.* If such inspection reveals that there are any defects or deficiencies in such improvements as installed or that improvements differ from the final engineering plans and specifications accepted by the City, the City Council's designee shall notify the owner/developer and his Engineer of Record in writing of such defects, deficiencies, and deviations. The owner/developer shall, at his expense, correct such defects or deviations prior to final plat approval. When such deficiencies have been corrected, the Engineer of Record shall notify the City Council's designee in writing that improvements are again ready and a final inspection shall be conducted.

**Section 152.500.06 Recording**

- (A) *Owner/Developer Responsibility.* Upon approval of the Final Plat and acceptance of the public dedications by the City Council, the owner/developer shall record the final plat at the Office of the Washington County Circuit Clerk no later than ten (10) days of the final plat approval.
- (B) After recording the plat, the owner/developer shall provide two (2) copies of the plat for the files of the Planning Commission and the City Council’s designee.

**Section 152.500.07 Application for Building Permit**

- (A) No building permits may be issued until proof of the recording of the approved Final Plat has been presented to the appropriate City Department.

**Section 152.500.08 Criteria for Substantial Completion (Non-Bondable Items)**

The following items shall be completed prior to Planning Commission approval of the final plat.

(A) Streets.

- (1) All curb and gutter and street drainage slopes completed and backfilled.
- (2) Final layer of asphalt in-place.
- (3) Street signs paid for.
- (4) Pedestrian accommodations constructed.
- (5) Road right-of-way restoration substantially complete.

(B) Sewer.

- (1) All sewer lines constructed to grade.
- (2) Mandrel and pressure tests complete.
- (3) All manholes complete to required elevations and vacuum tested.
- (4) Sewer services marked.
- (5) Lift station site functionally complete, with the exception of electricity.
- (6) Tracer wires installed on force mains and gravity sewer lines and tested.
- (7) Lift station alarm completed and monitorable.
- (8) Draft final record drawings.

(C) Water.

- (1) All water lines in-place, pressure tested, and bacterially tested safe.
- (2) All hydrants and valves in-place, accessible, and operational (facing street).
- (3) Meter tiles and setters in-place.
- (4) Tracer wires installed and tested.
- (5) Draft of record drawings.
- (6) Passing test results for all backflow devices provided.
- (7) All backflow prevention devices installed properly and functional.

(D) Drainage.

- (1) Drainage swales in-place, sodded or concrete-lined, properly dedicated with erosion control measures in- place.
- (2) Detention/retention facilities to grade and draining properly.
- (3) Outlet structures, pilot channels, headwalls, flumes, and other appurtenances in-place and constructed to approved plans and specifications.
- (4) Any needed off-site improvements or easements in-place.
- (5) Sodding of detention/retention ponds completed and established.
- (6) Fencing of detention/retention ponds in-place.
- (7) Aeration facilities for retention ponds in-place.
- (8) All drainage inlets, outlets, and conduits in proper location and constructed to approved plans and specifications.
- (9) Final layer of drainage paving in-place as required by approved plan, including parking lots.

**Section 152.500.09 Criteria for Guarantees (Bondable Items)**

The following items do not need to be completed prior to Planning Commission approval of the final plat, provided that the requirements of Section 152.300.08 Assurance of Performance have been met.

(A) Streets.

- (1) Correction of final layer of pavement to the required thickness and density.
- (2) Correction of low or ponding areas in street.
- (3) Correction of unacceptable curb sections.
- (4) Correction of damaged pedestrian accommodation sections.
- (5) Approval of final record street drawings.

(B) Sewer.

- (1) Cosmetic work.
- (2) Final record drawings.

(C) Water.

- (1) Painting hydrants with proper coding for fire flow rates.
- (2) Hydrant markers installed.
- (3) Adjusting meter tiles to grade.
- (4) Adjusting meter setters.
- (5) Adjusting valve stacks.
- (6) Pouring concrete valve operator pads.
- (7) Final record drawings.

(D) Drainage.

- (1) Cosmetic work (finish grout, clean out boxes, pipes, and other appurtenances).

**ARTICLE 152.600 Incidental Subdivisions**

Section 152.600.01. Applicability .....

Section 152.600.02. Application for Approval .....

Section 152.600.03. Review and Approval .....

Section 152.600.04. Recording .....

Section 152.600.05. Review Criteria .....

**Section 152.600.01 Applicability**

- (A) This section of the Subdivision Regulations is designed to expedite the platting and recording of Minor Subdivisions, Lot Splits and certain other dividing or adjustment of land area defined hereafter.
- (B) For the purposes of these regulations, incidental subdivisions include the following:
  - (1) *Lot Split*. A lot split in which a lot, located in an already existing recorded subdivision within the Planning Area is divided into three (3) lots or less, and where rights-of-way and/or utility easements are being dedicated to the City.
  - (2) *Minor Subdivision*. A minor subdivision in which a lot, tract, or parcel is divided into five (5) lots or less and does not require dedications, vacations, reservations, changes in alignment of easements or rights-of-way, or extensions of utilities.
  - (3) *Property Line Adjustment*. A property line adjustment in which a property line(s) is moved or relocated but does not create an additional lot. A property line adjustment may or may not dedicate rights-of-way and/or utility easements.
  - (4) *Correction Plat*. A correction plat in which a correction to an existing plat is necessary due to an incorrect legal description or scriber errors. The correction plat does not change the boundaries, does not change the subdivision name and does not create new lots. The correction plat may or may not create new utility easements.

**Section 152.600.02 Application for Approval**

- (A) The application shall be submitted to the City Council’s designee pursuant to the Tontitown Development Process Flow Chart and shall consist of the following:
  - (1) *Application*. Completed and signed application form.
  - (2) *Fee*. Payment of the filing fee as specified in the application or schedule of fees.
  - (3) *Survey*. Survey of the property signed and sealed by a Registered Land Surveyor with the State of Arkansas showing the information as required on the application.
  - (4) *Plat*. Provide the number of copies of the plat as indicated in the application. The plat shall be drawn clearly to include the information as required in Article 152.800, Plat and Plan Requirements.
  - (5) *Deed*. Copy of land deed showing ownership of property.

**Section 152.600.03 Review and Approval**

- (A) *Review*
  - (1) *Applicability*. The City Council’s designee shall review minor subdivisions, property line adjustments and correction plats The City Council’s designee shall inform the full Planning Commission at its next regular meeting that the minor subdivision, property line adjustment, or correction plat has been reviewed and is recommended for approval/denial by the Commission.

- (2) *Action.* Within fourteen (14) days of receipt of the complete plat from the applicant, the City Council's designee shall recommend approval, approval with conditions, or disapproval said plat. After formal approval by the Commission a building permit can be issued after the applicant records the plat at the Office of the Washington County Circuit Clerk and provides the City with two (2) copies. If the plans are approved with conditions, the conditions shall be set forth in written form to the owner/developer. The signature of the owner/developer on the form setting forth the conditions of approval shall be deemed his agreement to comply with said conditions, whereupon a building permit may be issued. If the plat is disapproved, the reasons for such action shall be provided in written form to the developer.
- (3) *Additional Review.* If the City Council's designee determines that there is a necessity of transmitting the plans to outside sources for additional comment or in-depth study, he shall notify the developer in writing within thirty (30) days of receipt of plans, that a decision will not be made within the thirty (30) day time period, what the reasons are for the delay and the date at which a decision can be expected. A copy of said letter shall be sent to the Chairman of the Planning Commission. If the developer objects to such an extension, said objection shall be heard as a priority item at the next regularly scheduled Planning Commission meeting.
- (4) *Approval Signatures.* All approvals to any plat shall be signified by the signature of the City Council's designee upon the development plan.
- (B) *Planning Commission Action.* The Planning Commission shall approve, approve with conditions, or disapprove any incidental subdivision after administrative review as set forth in Section 152.600.03(A) within one hundred and twenty (120) days of receipt thereof, otherwise said incidental subdivision shall be deemed to have been approved. Disapproval of the plat shall be transmitted to the applicant with the reasons therefore within fifteen (15) days after the meeting at which the plat was disapproved. Approval of the incidental subdivision by the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.
- (C) *City Council Action.* Any incidental subdivision that dedicates street rights-of-way or easements shall be reviewed by the City Council.

#### **Section 152.600.04 Recording**

If approved, and after all conditions have been met, the applicant shall submit the plat for recording with the Washington County Circuit Clerk. Two (2) copies and digital copy in AutoCAD (DWG) and PDF format on CD and a mylar of the final recorded plat shall be furnished by the applicant to the City Council's designee.

**Section 152.600.05 Review Criteria**

- (A) Approval or disapproval of incidental subdivisions shall be given based on the following threshold guidelines:
- (1) No new street or alley is required or proposed.
  - (2) No vacation of streets, alleys, setback lines, access control or easements is required or proposed.
  - (3) Such action will not result in any significant increases in public service requirements, nor will interfere with maintaining existing public service levels.
  - (4) There is adequate street right-of-way as required by these regulations and the Master Street Plan.
  - (5) All easement requirements have been satisfied.
  - (6) All lots created by such split or readjustment shall have access on a public street.
  - (7) No substandard sized lots or parcels shall be created.
  - (8) No waivers or variances from these regulations are requested.



**ARTICLE 152.700 Large Scale Developments**

Section 152.700.01. Applicability .....

Section 152.700.02. Pre-Application Conference.....

Section 152.700.03. Application for Approval.....

Section 152.700.04. Review and Approval .....

Section 152.700.05. Review Criteria .....

Section 152.700.06. Adjustment and Alterations .....

Section 152.700.07. Expiration and Extension of Approval .....

Section 152.700.08. Appeals .....

Section 152.700.09. Application for Building Permit .....

Section 152.700.10. Final Inspection.....

**Section 152.700.01 Applicability**

- (A) This section is applicable to all development or building construction within the City of Tontitown and its official Planning Area other than single family and duplex residential construction and development.
- (B) A Development Plan is required to be submitted to the City Council’s designee for all such development or building construction regardless of zone and for all additions to existing developments or buildings regardless of zone.
- (C) Single family and duplex residential construction is specifically exempted from this requirement.
- (D) Examples of facilities or construction covered, but not limited to:
  - (1) New commercial, industrial, or civic development and building construction.
  - (2) Additions, improvements, renovations or changes to existing buildings or developments.
  - (3) Residential construction or developments other than single family or duplex residential placed on individual lots.
  - (4) The revision of land use that results in the need for access to public streets or utilities.
- (E) No building permit shall be issued and no temporary or permanent connection to utilities shall be allowed until the Development Plan has been approved as set forth in this article. No permanent connection to utilities shall be allowed until the Chief Building Official or the City Council’s designee has certified compliance with the approved Development Plan

**Section 152.700.02 Pre-Application Conference**

- (A) *Purpose.* When the owner of a tract of land proposes its subdivision, the applicant is urged to discuss informally the intent of this subdivision with the City Council’s designee. The purpose and intent of the pre-application conference is to afford the applicant an opportunity to obtain the advice of the City Council’s designee in order to avoid unnecessary costs and delays to the applicant and to give informal guidance to the development at a stage where potential points of conflict or differences can be readily resolved.
- (B) *Fees.* No fees shall be collected for pre-application conference, its purpose being to acquaint the applicant with plans and policies in effect that may be significant to his proposed project (development, construction, usage, or revision).
- (C) *Sketch Plans.* The applicant shall submit sketch plans and data showing existing conditions within the site and its vicinity and the proposed layout and development of the proposed development. Sketch Plans should include tentative design/layout of the following improvements: Stormwater Detention, Utility Connections, Parking, Street Access, Lighting, Signage, and Landscaping.
- (D) *Discussion.* At the pre-application conference, the general character of the development will be discussed and items including zoning, utility service, street requirements, flooding and drainage, and other pertinent factors related to the proposed development and its proposed usage will be reviewed. Discussions at the pre-application conference shall not imply any approval of subsequent development plan approval.

### **Section 152.700.03 Application for Approval**

- (A) Development Plans are to be submitted to the City Council's designee pursuant to the Tontitown Development Calendar and shall be reviewed upon their individual merits upon specific application of the developer.
- (B) The Development Plans shall comply with Article 152.800, Plat and Plan Requirements.
- (C) The City Council's designee shall be permitted to waive certain requirements of the Plat and Plan Requirements, depending on the size and complexity of the building or development and upon the impact which the building or development may have on the Master Street Plan, Zoning Ordinance, and the Land Use Plan or any other published, current or future, plans for the City of Tontitown.
- (D) Unless given a waiver under section 152.700.03(C) above the Application for Approval must contain the following at a minimum to be considered:
  - (1) *Application*. Complete the application provided by the City Council's designee.
  - (2) *Fee*. Payment of the fee as indicated on the application.
  - (3) *Plans*. The number of copies of development plans and landscaping plans as identified on the application. All appropriate items as required by Article 152.800, Plat and Plan Requirements.
  - (4) *Deed*. Copy of land deed showing ownership of property.
  - (5) *Submittal to other Departments*. The developer shall submit to the City Council's designee and representatives for the Water, Sewer and Electrical consultants or agencies, as required by the City Council's designee, sufficient copies of the Development Plan drawn to scale. The plan shall be submitted containing a Development Plan, Landscape or Planting Plan, Utility Plan, Detail Sheet and Erosion Control Plans, Grading and Drainage Plans, and any other information required by the Planning Commission.

### **Section 152.700.04 Review and Approval**

- (A) Administrative Review.
  - (1) *Applicability*. The City Council's designee shall administratively review:
    - (a) *Residential*. Any residential development not exceeding two (2) family units; or,
    - (b) *Nonresidential*. Any nonresidential alteration or extension not exceeding fifty percent (50%) of the gross floor area of the existing structure. Only one (1) such alteration or extension to a structure may be approved by the City Council's designee without further review by the Planning Commission.
  - (2) *Action*. Within thirty (30) days of receipt of the complete Large Scale Development Plans by the City Council's designee, he shall recommend for approval, approval with conditions, or disapproval of said plans. If the City Council's designee recommends approvals of the plans, the designee shall forward the Plans to the Planning Commission.. If the plans are approved with conditions, the conditions shall be set

forth in written form to the developer. The signature of the developer on the form setting forth the conditions of approval shall be deemed his agreement to comply with said conditions.. If the plans are disapproved, the reasons for such action shall be reduced to written form and supplied to the developer.

(3) *Additional Review.* If the City Council’s designee determines that there is a necessity of transmitting the plans to outside sources for additional comment or in-depth study, he shall notify the developer in writing within the thirty (30) day period that a decision will not be made within the thirty (30) day period, what the reasons are for the delay and the date at which a decision can be expected. A copy of said letter shall be sent the Chairman of the Tontitown Planning Commission. If the developer objects to such an extension, said objection shall be heard as a priority item at the next regular Planning Commission meeting.

(4) *Approval Signatures.* All approvals to any development plan shall bear the signature of the Chairman of the Planning Commission upon the Development Plan.

(B) *Planning Commission Action.* All developments shall be submitted to the Planning Commission, which shall approve, approve with conditions, or disapprove the submitted plan. The Tontitown Planning Commission is required to take such action within forty-five (45) days of submission unless the applicant agrees to a postponement. All Planning Commission approvals to any Development Plan shall be signified by the signature on the Development Plan of the Chairman of the Planning Commission.

### **Section 152.700.05 Review Criteria**

(A) The City Council’s designee, Planning Commission or City Council may refuse approval of any Development Plan for any of the following reasons:

- (1) *Incomplete Application.* The Development Plan is not submitted in accordance with the requirements of this article.
- (2) *Violation of Law.* The proposed development or construction would violate a City Ordinance, or a State or Federal law.
- (3) *Dangerous Traffic Conditions.* The proposed development would create or compound a dangerous traffic condition. For the purpose of this ordinance, a “dangerous traffic condition” shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
- (4) *Lack of utilities.* Adequate water, sewer, and electrical utilities are not readily available to the property and the developer has made no provision for extending such service to the development, or the provision of these utilities cannot obtain approval by the State Health Department, or other appropriate Department.
- (5) *Inadequate Drainage Conditions.* The property to be developed reflects an extreme drainage problem uncorrected by the proposed development plan.

(6) *Other Actions Required.* The plans pertain to a parcel that requires prior platting or rezoning.

(7) *Other.* Any other circumstances as determined by the Planning Commission.

#### **Section 152.700.06 Adjustment and Alterations**

The Development Plan approved by Planning Commission will be deemed to be a final plan for which minor adjustments and modifications may be granted upon request of the City Council's designee. In no event may any modifications to a development plan be made without prior approval of the City Council's designee. Any substantial changes in the development will be in conformance with the procedures for a new submission. Determination of the relative importance of the alterations and/or the need for re-submittal will lie with the City Council's designee.

#### **Section 152.700.07 Expiration and Extension of Approval**

(A) *Expiration.* The approved development plan is conditioned upon the applicant accomplishing the following tasks within six (6) months from the date of approval:

(1) Receive a building permit;

(2) Place footing; and

(3) Receive all permits and approvals required by City, State and Federal regulations to start construction of the development or project.

(B) *Extension.* Prior to the expiration of the six (6) month time limit, an applicant may request the Planning Commission to extend the period to accomplish the task by up to six (6) additional months. The applicant has the burden to show good cause why the task could not be reasonably completed with the normal six (6) month time limit. Only one six (6) month extension will be permitted for a given project. After the expiration of the extension period the applicant will be required to resubmit the Large Scale Development including the payment of all fees and requirements of the original submittal.

#### **Section 152.700.08 Appeals**

(A) *Administrative Determination.* Any decision of the City Council's designee disapproving or approving with conditions a Development Plan may be appealed to the Planning Commission provided the developer does so within thirty (30) days of the designee's decision.

(B) *Planning Commission Determination.* Any decision of the Planning Commission may be appealed to the City Council provided the developer does so within thirty (30) days of the decision of the Planning Commission. All such appeals shall be in writing, and shall be filed with the City Clerk of the City of Tontitown, Arkansas.

**Section 152.700.09 Application for Building Permit**

- (A) Upon approval or conditional approval of the Large Scale Development Plan, the applicant may submit an application for a building permit. The applicant shall provide the following documents prior to issuance of the building permit:
- (1) Letters of approval from AHTD, State Department of Health, or any other Department requiring State or local government entity approval.
  - (2) A thirty-six (36) month replacement guarantee from the supplier or property owner on all live plant material used in the landscape plan; and
  - (3) Any Large Scale Development that has over \$20,000 of donated assets, as determined by the Engineer of Record that is to be dedicated to the City of Tontitown shall provide a maintenance letter of credit, bond, or cash deposit in accordance with the requirements in Section 152.300.09 Maintenance Guarantee and a warranty in accordance with the requirements in Section 152.300.08 Assurance of Performance.

**Section 152.700.10 Final Inspection**

- (A) *Purpose.* The purpose of the Large Scale Development Final Inspection (Development Final) is to insure the completed project complies with the Master Street Plan, Subdivision Ordinance, Zoning Ordinance, and any other, current or future, governing specifications and regulations of the City of Tontitown.
- (B) *Process.*
- (1) *Certificate of Completion.* When site construction is complete, the owner/developer's engineer-of-record shall submit a written statement certifying that all improvements and installations to the Large Scale Development required for its approval under the terms of these regulations have been made, added, installed and are functional in accordance with City specifications.
  - (2) *Development Final Inspection (Development Final).* The owner/developer's engineer-of-record shall request in writing a Development Final Inspection, addressed to the City Council's designee. No inspection shall be passed until all items are completed in accordance with Sections C and D below.
  - (3) *Certificate of Occupancy Inspection (Building Final).* A Certificate of Occupancy Inspection shall be scheduled only after the project has passed the Development Final inspection.
- (C) *Completed Improvements for Certificate of Occupancy.* The following improvements shall be complete prior to the City issuing the Development Final Inspection and the owner/developer scheduling a Certificate of Occupancy Inspection.
- (1) *Streets.*
    - (a) All curb and gutter completed and backfilled.
    - (b) Final layer of pavement in-place to required thickness and density.

- (c) Pedestrian accommodations constructed per approved plan including accessible ramps.
- (d) Low or ponding areas in public streets corrected.
- (e) Pavement markings complete and all necessary signage in place

(2) *Drainage.*

- (a) Drainage swales in-place, sodded or concrete-lined, properly dedicated with erosion control measures in- place.
- (b) Detention / retention facilities to grade and draining properly.
- (c) Outlet structures, pilot channels, headwalls, flumes, and other appurtenances in-place and constructed to approved plans and specifications.
- (d) Any needed off-site improvements or easements in-place.
- (e) Sodding of detention/retention ponds complete and established.
- (f) Aeration facilities for retention ponds in-place.
- (g) All drainage inlets, outlets, and conduits in proper location and constructed to approved plans and specifications and free of sediment or debris.
- (h) Required fencing of detention/retention ponds in-place.
- (i) Final layer of drainage paving in- place as required by approved plan, including parking lots.

(3) *Water.*

- (a) All water lines in-place, pressure tested and bacteriological tested safe.
- (b) Meter tiles and setters in-place and operational.
- (c) Tracer wires in-place and tested.
- (d) Draft of record drawings submitted.
- (e) All valves operational.
- (f) Passing test results for all backflow devices provided.
- (g) All backflow prevention devices installed properly and functional.

(4) *Sewer.*

- (a) All sewer lines constructed to grade.
- (b) Mandrel and pressure tests complete.
- (c) Perform video inspection and discrepancies repaired and re-inspected.
- (d) All manholes complete to required elevations and vacuum tested.
- (e) Sewer services marked with T-posts in grass areas or mag nail with reflective disc if service is located under pavement.
- (f) Lift stations operational.
- (g) Tracer wires installed on all sewer lines and force mains and tested.
- (h) Lift station alarm deposit submitted.
- (i) Lift station extra pump delivered.
- (j) Draft of record drawings submitted.

- (5) *Fire.*
    - (a) All hydrants and valves in-place, accessible, and operational (facing street).
    - (b) Fire lanes marked.
    - (c) Building addressed (temporary).
    - (d) Fire flow tests.
  - (6) *Planning.*
    - (a) Final grades achieved.
    - (b) Seeding and sodding in-place.
    - (c) ADA requirements met.
    - (d) Landscaping installed when scheduling a development final inspection between March 2 to July 14 and September 16 to November 30. Parking paved and marked.
    - (e) Dumpsters screened.
- (D) *Exceptions for Temporary Certificate of Occupancy.* The City may schedule a Certificate Of Occupancy inspection to issue a Temporary Certificate Of Occupancy if the items in Section C above are complete, but any of the following items are incomplete:
- (1) *Streets.*
    - (a) Unacceptable curb sections on city streets corrected.
    - (b) Joints in concrete pavement and curb and gutter cleaned and caulked.
  - (2) *Drainage.*
    - (a) Cosmetic work (finish grout, clean out boxes and pipes).
    - (b) Final record drawings submitted.
  - (3) *Water.*
    - (a) Hydrants painted, as directed by the Tontitown Water Department.
    - (b) Meter tiles adjusted to grade.
    - (c) Meter setters adjusted to grade.
    - (d) Valve stacks adjusted to grade.
    - (e) Concrete valve operator pads installed and grouted.
    - (f) Final record drawings submitted.
  - (4) *Sewer.*
    - (a) Cosmetic work complete.
    - (b) Final as-built drawings submitted.
  - (5) *Fire.*
    - (a) Building addressed (permanently).
  - (6) *Planting.* Landscaping installed when scheduling a development final inspection between December 1 to March 1 and July 15 to September 15 if the climate and weather delay completion.



**ARTICLE 152.800 Plat and Plan Requirements**

Section 152.800.01. Items to be Shown on Plat or Included in a Plan .....

Section 152.800.02. Certificates .....

Section 152.800.03. Waiver .....

**Section 152.800.01 Items to be Shown on Plat or Included in a Plan**

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
<b>General Requirements</b>				
(1) Show property lines of all property owners adjacent to the exterior boundaries of the project shall be located on the plat at the location of their property.	✓	✓	✓	✓
(2) Provide names, addresses, telephone number, e-mail addresses and fax numbers, of all parties involved in project. Include registration and license number of professionals.	✓	✓	✓	✓
(3) Show north arrow, scale, dates of preparation, zoning classification, and proposed use.	✓	✓	✓	✓
(4) Provide title block located in the lower right hand corner indicating the name and type of project, scale, firm or individual preparing drawing, date, and revisions.	✓	✓	✓	
(5) Provide a complete and accurate legend.	✓	✓	✓	✓
(6) Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress or completed.	✓	✓	✓	
(7) Show boundary survey of the property shown on the plat/plan or separate sheet. The surveyor shall seal, sign, and date the survey. The survey shall be tied to State Plane Coordinates on two controlling corners of the property and meet all requirements of Section 152.800.	✓	✓	✓	✓
(8) Provide written legal descriptions including area in square feet or acres that read clockwise. (Note: If the project is contained in more than one tract, the legal description for each individual tract and a total tract description must be provided.)	✓	✓	✓	✓
(9) Show point-of-beginning from a permanent well-defined reference point. This P.O.B shall be clearly labeled on the drawing.	✓	✓	✓	
(10) Show curve data for any street, which forms a project boundary. Curve data shall include radius, arc and chord distance.	✓	✓	✓	✓
(11) Show street right-of-way lines clearly labeled. The drawing shall depict any future R.O.W needs as determined by the AHTD and Master Street Plan. Future R.O.W as well as existing R.O.W. and centerlines should be shown and dimensioned. All future	✓	✓	✓	✓

<b>Requirements</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>	<b>Large Scale Development</b>	<b>Incidental Subdivision</b>
R.O.W. shall be dedicated on drawing.				
(12) Show 100 yr. Floodplain and/or Floodway and base flood elevations. Reference the FEMA FIRM panel number and effective date.	✓	✓	✓	✓
(13) Provide a benchmark (within ½ mile) clearly defined with an Accuracy of one/one hundredth (1/100) foot. This Benchmark must be tied to USGS Datum.	✓	✓	✓	
(14) Indicate spot elevations at grade breaks along existing road centerlines, gutter lines and top of curbs or edge of pavement and ditch inverts and culverts.	✓		✓	
(15) Provide a general vicinity map of the project with a radius of one (1) mile from the project.	✓		✓	✓
(16) Show existing and proposed topographic information with source of the information noted. Show: (a) Two-foot contour interval for ground slope between level and ten percent. (b) Five-foot contour intervals for ground slope exceeding ten percent. (c) Contours of adjacent land within 100 feet of the project shall also be shown.	✓		✓	
(17) Show the location of all existing structures. On large-scale developments, show the location of proposed buildings and square feet. Dimension building and setbacks from the building side to property lines.	✓		✓	✓
(18) Provide sign-off block.	✓	✓	✓	
(19) Provide revision block.	✓	✓	✓	
<b>Existing Utilities</b>				
(20) Show all known on-site and off-site existing utilities and easements (dimensioned) and provide the structures locations, types, and condition and note them as “existing” on the plat.	✓	✓	✓	✓

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
(21) Show existing easements shall show the name of the easement holder and purpose of the easement and registry recording information.. If an easement is blanket or indeterminate in nature, a note to this effect shall be placed on the plat or plan.	✓	✓	✓	✓
<b>Proposed Utilities</b>				
(22) Regarding all proposed storm sewer structures and drainage structures: (a) Provide structure locations and types. (b) Provide pipe types and sizes.	✓	✓	✓	
(23) Regarding all proposed sanitary sewer systems, applicant shall : (a) Provide letter of approval from system operator	✓		✓	✓
(b) Provide pipe locations, sizes and types (c) Show manhole locations of rim and invert elevations	✓	✓	✓	
(d) Provide profiles including slope in percentage and existing and proposed utilities when crossing or parallel in vicinity. (e) Provide plan and route for access to all manholes. (f) If lift-station is proposed, submit plans to the Water and Sewer Commission or their designee for review before submission to the ADEQ.	✓		✓	✓
(g) Show off-site plans (if applicable) for gravity sewer and force mains serving the proposed development.	✓	✓	✓	
(24) Indicate the occurrences of any previous overflow problems of sewer or septic systems on-site or in the proximity of the site.	✓		✓	✓
(25) If a septic system is proposed, indicate it on the plat or plan. Show proposed location of septic tank and lateral fields including detail of leachate pipes and drain fill material. Show primary and alternate lateral field areas.	✓	✓	✓	
(26) Regarding all proposed water systems, on or near the site, provide information required in twenty-seven (27) thru thirty (30) below.	✓		✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
(27) Provide pipe locations, types and sizes	✓	✓	✓	
(28) Indicate the static pressure and flow of the nearest hydrant along with engineer calculations of flow rates.	✓		✓	
(29) Show location of proposed fire hydrants, meters, valves, backflow preventers and related appurtenances.	✓	✓	✓	
(30) Show that the design of the water and sewer utilities will minimize conflict with other underground utilities, and provide clear copy.	✓		✓	
(31) Show locations of all related utility structures.	✓		✓	
(32) Show locations of all utility lines (note whether the line is below or above ground).	✓	✓	✓	
(34) Indicate where streets will be constructed under the existing overhead facilities and the approximate change in grade for the proposed street.	✓		✓	
(35) Indicate the width, approximate locations, and purposes of all proposed easements or rights of way for utilities, drainage, water, sewers, flood control, ingress/egress or other public purposes within and adjacent to the project.	✓	✓	✓	✓
<b>Proposed and Existing Streets, Rights-of-Way, and Easements</b>				
(36) Indicate the location, widths, grades, and names (avoid using first names of people for new streets) of all existing and proposed streets, alleys, paths, and other rights-of-way, whether public or private, within and adjacent to the project; private easements within and adjacent to the project; and the radius of each centerline curve. Curve/arc of streets should include radius and arc distance data on survey or plat. Private streets shall be clearly indicated and named. Street names must clearly be indicated. Names shall be final as approved on the Preliminary Plat. All items shall be dimensioned and labeled if previously dedicated per a separate document.	✓	✓	✓	
(37) Show layout of adjoining property with five hundred (500) feet in sufficient detail to show the affect of proposed and existing streets, adjoining lots, and off-site easements. This information can be obtained from the Master Street Plan, aerial photos, and local surveyors.	✓		✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
(38) Identify and dimension all access easements, including ingress and egress.	✓	✓	✓	✓
(39) A preliminary easement plat may be required by the City Council’s designee depending on the number and location of easements. After construction of the approved large-scale development, a final easement plat must be submitted to the City Council’s designee. Seven (7) full size copies are required.			✓	
<b>Subdivision of Land</b>				
(40) The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest one/one-hundredth (1/100th) acre of each lot, and the approximate finish grade where pads are proposed for building sites. Lots shall be numbered consecutively for all phases. These numbers shall be associated with each phase of subdivision. The total number of lots shall be indicated on the plat. Subdivision names shall be shown and considered final as approved on the Preliminary Plat.	✓	✓	✓	✓
(41) Show the designation of all “out lots” and anticipated uses, if known.	✓	✓	✓	
(42) For phased development, a plat showing all phases is required.	✓		✓	✓
<b>Site Specific Information</b>				
(43) Provide a note of any known existing erosion problems on-site or within two hundred fifty (250) feet downstream of the property. Provide locations and type of all stormwater runoff control devices and improvements as part of the overall stormwater pollution prevention plan for the project site.	✓		✓	✓
(44) Show the location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, fuel tanks and any other underground structures within the project.	✓		✓	✓
(45) Show the locations of known existing or proposed ground leases or access agreements, if known (e.g. shared parking lots, drives, areas of land that will be leased). List any deeded mineral, gas and oil rights and registry recording information.	✓		✓	✓

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
(46) The location of all known potentially dangerous areas, including areas subject to flooding, slope stability, settlement, excessive noise, previously filled areas and the means of mitigating the hazards to, included but not limited to, abatement wall and signage.	✓		✓	✓
(47) Show the boundaries, acreage, and the use of existing and proposed public areas in and adjacent to the project. If land is to be offered for dedication for park and recreation purposes it shall be designated on documents submitted for approval and acceptance by the City of Tontitown.	✓	✓	✓	
(48) Indicate the use and list in a table the number of units and bedrooms in each building.			✓	
(49) For non-residential use, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.			✓	
(50) Show the location and size of existing and proposed signs, if any.	✓		✓	
(51) Show location and width of curb cuts and driveways. Dimension all driveways and curb cuts from side property line and surrounding intersections.	✓		✓	
(52) Show location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicap accessible parking spaces.			✓	
(53) Show location of buffer strips, fences or screen walls, where required.	✓		✓	
(54) Indicate location of garbage service and screening requirements.			✓	
(55) Provide a description of commonly held areas, if applicable and designate responsible entity(ies) for maintenance and property taxes.	✓	✓	✓	
(56) Provide existing or draft of covenants, conditions, and restrictions.	✓	✓	✓	✓
(57) Provide a written description of requested waivers from any city requirement and reason(s) waiver is necessary.	✓	✓	✓	

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
(58) Show required building setbacks for large-scale developments. Provide a note on the plat of the current setback requirements for the subdivision. A variance is necessary from the Board of Adjustment for proposed setbacks less than those set forth in the zoning district.	✓	✓	✓	
(59) Provide preliminary drainage plan as required by the City Engineer, or the City Council's designee.	✓		✓	
(60) Show size, location, and type of all existing trees over six (6) inches or more in DBH except in areas determined by the City Council's designee to be heavily wooded.	✓		✓	✓
(61) Provide landscape plan.			✓	
(62) Show location of proposed and existing area light fixtures.			✓	
(63) Show description of each illuminating device, fixture, lamp, support and shield. The description shall include, but is not limited to, manufacturer's catalog cuts, illustrations, wattage, and lumen outputs. If required, documentation of compliance with cutoff requirements shall be provided.			✓	
(64) Provide elevation drawings of front, rear and sides of the structure showing all entrances, windows, site objects and fixtures to include color and type of material.			✓	

A Notice shall be placed on the preliminary plat stating, "Preliminary Plat for Inspection Purposes Only. Not for Record Purposes".



**Section 152.800.02 Certificates.**

(A) *Preliminary Plats.* Each preliminary plat must be submitted in accordance with applicable state statutes and shall include the following certificates.

(1) *Certificate of Preliminary Survey Accuracy.*

I, \_\_\_\_\_, hereby certify that this plat correctly represents a boundary survey made by me and all monuments shown hereon actually exist and their location, size, type and material are correctly shown.

Date of Execution: \_\_\_\_\_

\_\_\_\_\_

Registered Land Surveyor

State of Arkansas

Registration No. \_\_\_\_\_

(2) *Certificate of Preliminary Engineering Accuracy.* Each set of street and drainage plans must be submitted in accordance with applicable state statutes and any plans and specifications required:

I, \_\_\_\_\_, hereby certify that this plan correctly represents a plan prepared under my direction and engineering requirements of the Tontitown Subdivision Regulations have been complied with.

Date of Execution: \_\_\_\_\_

\_\_\_\_\_

Registered Engineer

State of Arkansas

Registration No. \_\_\_\_\_

(3) *Certificate of Preliminary Plat Approval.*

This plat has been given preliminary plat approval only and has not been approved for recording purposes as a public record. This certificate shall expire on \_\_\_\_\_ (date).

Date of Execution: \_\_\_\_\_

\_\_\_\_\_

Chairman, City of Tontitown Planning Commission

(B) *Final Plats.*

(1) *Certificate of Ownership.*

We the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided and do hereby lay off, plat, subdivide said real estate in accordance with this plat and do hereby dedicate to the use of the public the streets, alleys, drives, and easements as shown on said plat.

Date of Execution: \_\_\_\_\_

Signed : \_\_\_\_\_

Name & Address:

Source of Title: D.R. \_\_\_\_\_

Page \_\_\_\_\_

(2) *Certificate of Recording.*

This document filed for record  
This \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_,  
In Plat Book No. \_\_\_\_\_, Page \_\_\_\_\_.

Signed: \_\_\_\_\_  
Washington County Circuit Clerk

(3) *Certificate of Surveying Accuracy*

I, \_\_\_\_\_, hereby certify that this plat correctly represents a boundary survey made by me and boundary markers and lot corners shown hereon actually exist and their location, type and material are correctly shown and all minimum requirements of the Arkansas Minimum Standards for Land Surveyors have been met.

Date of Execution: \_\_\_\_\_

Signed: \_\_\_\_\_  
Registered Land Surveyor  
No. \_\_\_\_\_  
State of Arkansas

*(4) Certificate of Approval.*

Pursuant to the City of Tontitown Subdivision Regulations and all other conditions and approvals having been completed, this document is hereby accepted. This Certificate is hereby executed under the authority of the said rules and regulations.

Date of Execution: \_\_\_\_\_

Signed \_\_\_\_\_

Chairman, Tontitown Planning Commission

Planning Commission

Signed \_\_\_\_\_

City Council's Designee

Signed \_\_\_\_\_

City Clerk, City of Tontitown

**Section 152.800.03 Waiver**

The applicant may request the Planning Commission waive any of the foregoing requirements. The Planning Commission may do this when, in their discretion, any such requirement is not necessary due to the nature of the proposed subdivision or large scale development. Such request for waiver must be documented in writing and sent to the Planning Commission. A pre-application conference can be arranged and is encouraged to review the proposed project requirements.

**ARTICLE 152.900 Minimum Survey Standards**

Section 152.900.01 General Requirements.....

Section 152.900.02 Horizontal Control.....

Section 152.900.03 Vertical Control Standards.....

Section 152.900.04 Monumentation.....

**SEC. 152.900.01 General Requirements**

This article is provided to establish minimum standards for surveying work performed for the development of subdivisions within the jurisdiction of the Planning Commission. This article shall apply to all developments requiring the submittal of a preliminary or final plat to the Planning Commission or Planning Department for review and approval. All boundary surveys performed for the purpose of subdividing properties within the jurisdiction of the city shall conform to the “Arkansas Minimum Standards for Property Boundary Surveys and Plats,” except where the standards contained within this chapter exceed those established by the state.

**SEC. 152.900.02 Horizontal Control Standards**

- (A) Horizontal Datum. The horizontal datum for all survey work performed shall be the Arkansas State Plane Coordinate System – north zone – NAD 83. All horizontal control work shall commence and end at a Tontitown GPS Monument Network monument or Tontitown GPS Monument Network first generation monument.
- (B) Accuracy Standard. Horizontal positions for all Tontitown GPS Monument Network monuments shall be determined to an accuracy standard equal to Urban Type A classification as defined by the Arkansas Minimum Standards for Property Boundary Surveys and Plats. All field techniques and procedures shall be compatible with the equipment utilized to insure that a true urban type A accuracy level is achieved.
- (C) Data Control Form. Position and reference information shall be provided on a standard data control form for a minimum of two (2) Tontitown GPS Monument Network monuments which shall be inter-visible with each other and submitted with the final plat. Forms may be obtained from the City of Tontitown Planning Department. These monuments will be included in the Tontitown GPS Monument Network if, after their review by the City, they are determined to be suitable for inclusion into the network.
- (D) Interior Corners. All interior corners of the subdivision (lot corners, street center line control points, etc.) shall be established and monumented to meet the minimum accuracy standards established by the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

**SEC. 152.900.03 Vertical Control Standards**

- (A) Vertical Datum. The vertical datum for all survey work performed shall be the National Geodetic Vertical Datum 1988 Adjustment (NGVD88). All vertical control work shall commence and end at Tontitown GPS Monument Network monument or Tontitown GPS Monument Network first generation monument.
- (B) Accuracy Standard. Elevations for all concrete monuments shall be determined to an accuracy standard equal to third order classification as defined by the Federal Geodetic Control Committee. All field techniques and procedures shall be compatible with the equipment utilized to insure that a true third order accuracy level is achieved.

**SEC. 152.900.04 Monumentation**

(A) Monument Construction. Tontitown GPS Monument Network monuments may be cast in place or prefabricated and shall be of similar construction described as follows:

- (1) A minimum six-inch (6”) diameter steel reinforced concrete post set flush with ground. The concrete shall be 3,000-psi minimum compressive strength premix concrete.
- (2) Monument shall be a minimum of thirty-six (36) inches in depth.
- (3) Steel reinforcement shall consist of a minimum of two (2) thirty-four-inch (34”) long one-half-inch (1/2”) diameter steel bars. Bars shall be driven a minimum of six (6) inches into undisturbed soil.
- (4) A brass or aluminum survey cap (including a permanent magnet), a minimum of two (2) inches in diameter, shall be cast or grouted into the top of the concrete post. The following information shall be stamped into the survey cap:
  - (a) A stamped “.” to mark the precise location of point being monumented.
  - (b) Registration number of the surveyor in charge.
  - (c) Monument number as assigned by the City.

(B) Lot and Boundary Corner Monuments. All lot corners and boundary corners other than those described in Sec. 1000.4(A) shall be monumented according to the specifications outlined with the “Arkansas Minimum Standards for Property Surveys and Plats” and any amendment made thereto.

**ARTICLE 152.1000 Design Standards**

Section 152.1000.01. General Provisions .....

Section 152.1000.02. Subdivision Design Standards .....

Section 152.1000.03. Improvements and Standards.....



**Section 152.1000.01 General Provisions**

- (A) *Conformance to the City Plans.* The quality of design of the urban area is dependent upon the quality of individual subdivisions. Good community design requires coordination of the efforts of each sub-divider and developer in the community. The design of each subdivision shall be prepared in accord with the principles established by the City's Plans for land use, traffic, circulation, community facilities and public utility services, and in accord with the following general design standards. The purpose of this portion of these regulations is to specify the basic and minimum requirements for lots, blocks, streets, and other physical elements in new subdivisions. It also provides a guide for the City Council's designee, the Planning Commission and the applicant in the review and preparation of subdivision plats. To ensure the various purposes of the Subdivision Regulations are adhered to, all subdivisions hereinafter established shall conform to the Tontitown Land Use Plan, the Master Street Plan, and the official Planning Area Map of the City, and any subsequent regulations, ordinances, or amendments, or modifications adopted by the City. The location of major thoroughfares and streets, location of parks, playgrounds, schools, and other public sites, and appropriate land uses, shall be designed to conform to minimum zoning and building regulations for the area in which the proposed subdivision is located.
- (B) *Suitability of Land.* Land subject to flooding or topographically unsuitable for residential occupancy and which the Planning Commission considers unsuitable for subdividing shall not be platted for any use that may increase the danger to health, life, property or aggravate erosion or flood hazard. If such land is platted and adequate corrective measures are formulated by the developer and approved by the Planning Commission, the land shall be set aside for uses as will not be affected by periodic flooding or unsuitable topographic conditions
- (C) *Provision of Land for Public Purposes.*
- (1) Where proposed community or public facilities are located in whole or in part in a proposed subdivision, the Planning Commission, City Council, or public board shall require that land for those public facilities be reserved as a condition of preliminary plat approval.
  - (2) Such reservations shall be referred to the appropriate public board, commission, or body having jurisdiction or financial responsibility to permit the opportunity to acquire said sites either through purchase, taking an option, or the filing of condemnation proceedings under the power of eminent domain. If the contract to acquire the subject public site is not closed within twelve (12) months following the date of approval of the preliminary plat by the Planning Commission, the subdivision process shall continue without regard for the proposed community or public facilities.
- (D) *Access.* A publicly dedicated street shall serve every subdivision. Every lot or parcel within a subdivision shall have access to a publicly dedicated street. All lots shall front on public streets and have a frontage boundary of not less than fifty (50) feet.
- (E) *Fitness for Development.*

- (1) Based on topographic maps, soil surveys, and any special studies made by or for the City or information provided by the developer, the Planning Commission may require that steep grades, unstable soil and floodplains be set aside and not subdivided until corrections are made to protect life, health and property.
- (2) Due to the extreme topographic conditions encountered in many areas of Tontitown and its Planning Area, the Planning Commission shall judge each proposed development on its own conditions and shall be flexible in allowing deviations to the requirements of this Article.
- (3) Other possible deviations are discussed in various other paragraphs of this Article.

**Section 152.1000.02 Subdivision Design Standards**

(A) *Streets.* The location and width of all streets, thoroughfares, and roads throughout the Tontitown Planning Area shall conform to the Master Street Plan. The arrangement, character, extent, width, grade and location of all streets shall be designed in accord with the following provisions:

- (1) Streets shall be related appropriately to the existing topography so as to produce buildable lots and streets of reasonable gradient. Street grades and alignment shall conform reasonably to the original topography. In steep areas, through-streets should generally follow contour lines rather than cross them. Combinations of steep grades and curves shall be avoided. Sudden and frequent changes in grade along arterials shall be avoided. Sharp horizontal curvatures should be avoided if possible at or near the high point of a crest, vertical curve, or near the low point of a pronounced sag or vertical curve.
- (2) The proposed street layout should be appropriate for the type of development proposed and integrated with the street system in the adjoining subdivisions. The layout shall also conform to existing and proposed land uses for the area.
- (3) The designers of residential streets are encouraged to lay them out to slow the use by through traffic, to permit efficient drainage and utility systems, and to require the minimum length of pavement necessary to provide convenient and safe access to property. Methods to slow traffic may include offset street centerlines, curvature of streets, narrowing of streets for limited distances, development of gateway entrances, changes in elevation of streets or a combination of methods. All methods must meet all relevant city regulations and must be approved by the City Council's designee. If the Planning Commission determines that a residential street is being designed in such a way as to encourage high-speed and/or cut through traffic, it may require changes in the design and platting of that street or the use of traffic calming techniques so as to slow traffic and discourage cut-through traffic. At the initiation of the applicant, any such required change may be appealed to the City Council.
- (4) Proposed through streets shall be extended to the boundary lines of the tract to be subdivided to ensure connectivity to existing and future development unless the

Planning Commission or its designee has determined that such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing and adjoining parcels.

- (5) New boundary streets (those bordering the perimeter of the property) shall be avoided except where the requirement of the Master Street Plan provides a defined alignment.
- (6) The Planning Commission may authorize a new boundary street when the sub-divider proposes to dedicate the entire right-of-way and construct all the required improvements. In no case shall a sub-divider retain a parcel of land lying between a newly created boundary street and a former property line, the purpose of which would be to deny access by abutting owners. Where the plat to be submitted includes only a part of the tract owned or intended to be subdivided by the sub-divider, a tentative plan of proposed future street system for the unsubdivided portion of property shall be prepared and submitted to the Planning Commission. Furthermore, proper access in the form of stub streets or temporary dead-end streets shall be provided to adjacent unplatted property unless, in the judgment of the Planning Commission, topographic conditions or physical constraints preclude reasonable provision of such access or alternate routes are, or will be available in the future.
- (7) Existing streets which do not meet city standards for width and construction standards and which abut any property submitted for subdivision or replatting, that result in a greater number of lots than the number existing, shall be improved to City Standards.
- (8) *Cul-de-sac Streets.*
  - (a) Cul-de-sacs tend to reduce the number of connections and choices available for people traveling by automobile and increase congestion on other streets. Where cul-de-sacs are utilized, pedestrian accommodations to allow linkages with like abutting properties and the street system shall be required. Construction standards for the pedestrian accommodations shall be as required in other sections of this Article. For instance, pathways could be provided linking the backs of lots fronting on the termination of cul-de-sacs and providing access to sidewalks along through streets.
  - (b) Cul-de-sac streets or courts designed to have one end permanently closed or streets or street loops with a single access shall have a distance no greater than six hundred and fifty (650) feet from the point of access to the nearest point of the furthest lot with the distance measured along the shortest route within the street right-of-way. **Exceptions:** A cul-de-sac street may be up to one thousand one hundred and twenty (1,120) feet in length if it has a right-of-way of not less than sixty (60) feet in width, a paved width from back of curb to back of curb of not less than forty (40) feet and it meets all other requirements for a cul-de-sac. A residential cul-de-sac street may be up to one thousand one hundred and twenty

- (1,120) feet in length if it has a right-of-way of not less than fifty (50) feet in width, a paved width from back of curb to back of curb of not less than twenty-seven (27) feet, all lots provide no less than ninety (90) feet of width at the building line per dwelling unit and it meets all other requirements for a cul-de-sac. Any cul-de-sac over seven hundred fifty (750) feet must have Planning Commission and Fire Chief approval.
- (c) Where a street does not extend to the boundary of a subdivision and its continuation is not necessary for access to adjoining property, its terminus shall be no closer than fifty (50) feet to such boundary.
  - (d) An acceptable turnaround with a minimum radius of forty (40) feet shall be provided at the end of all permanent dead end streets exceeding one hundred fifty (150) feet in length.
  - (e) In the case of temporary dead-end streets, less than one hundred fifty (150) feet in length, which are stub streets designed to provide future connections with unsubdivided adjacent areas, the Planning Commission may require a temporary easement for a turnaround of the type discussed above. No building permit may be issued for lots with sole frontage on a stub out or at the end of a stub out.
- (9) The Developer shall provide names for all streets within the subdivision. Names shall not duplicate any existing name of any street within the Tontitown Planning Area. The Planning Commission shall have the authority to review the street names and to require changes in any proposed names. Street names using common given names i.e. Sarah, Jonathon, etc. will not be approved.
- (10) The Developer shall provide a plan for the subdivision which includes lot numbers. Such plan shall be fully coordinated Tontitown GIS authorities and others that have authority to assign addresses within the area of the subdivision.
- (11) *Intersections and Alignment.*
- (a) Street intersections shall be laid out as nearly at right angles as possible. The centerline of no more than two streets shall intersect at any one point. No intersection shall be at an angle of less than seventy-five (75) degrees and where collector and arterial streets intersect other collector or arterial streets, the curb radii at the intersection shall not be less than thirty-five (35) feet. Where residential streets intersect with other residential, collector or arterial streets, the curb radii at the intersection shall not be less than twenty-five (25) feet.
  - (b) Local street centerline offsets of less than one hundred twenty-five (125) feet shall be avoided. Proposed new intersections along one side of an existing street shall, wherever practical, coincide with any existing intersection on the opposite side of the street. In proximity to intersections of collector streets and above in the Functional Classification System and Master Street Plan, centerline offsets of less than two hundred fifty (250) feet shall be avoided

- (c) Additional street paving and right-of-way in the form of turning lanes and acceleration lanes shall, upon consultation with the City Council's or City Engineer, be required along arterial streets at intersections with other arterial or collector streets.
  - (d) Property line corners at street intersections shall be rounded with a radius of at least twenty-five (25) feet.
  - (e) Street intersections shall be located to avoid creating hazardous driving conditions.
- (12) Street grades and minimum design standards shall be provided as noted on Table 2

(A)

<b>Table 2 – Street Classification and Design Standards</b>						
<b>Standard</b>	<b><u>Alley</u></b>	<b><u>Residential</u></b>	<b><u>Sub-Collector</u></b>	<b><u>Collector</u></b>	<b><u>Minor Arterial</u></b>	<b><u>Major Arterial</u></b>
Approx. Design Speed (MPH)	5-10	15-20	20-25	20- 25	30-35	35-45
Max. Grade %	--	12 (4)	10	10	9	8
Lane Width Back curb/pavement edge (ft)	--	10	10	11	12	12
Min. ROW (ft)	22	40	50	60	80	152.100
Min. Paved Width (ft)	20 (3)	20	20 (5a)	22 (5b)	48(5c)	48(5c)
Min. Sight Distance (ft)	--	135	200	200	375	425
Min. Horiz. Radius at Centerline (ft)	--	50	200	450	900	1400
Min Horiz. Tangent Between Rev. Curves		50	152.100	200	300	400
Sidewalks (1)		4	4	6	6	6
Greenspace (2)		2	4	4	4	6
Note 1 - Sidewalks are not shown along streets in the Master Street Plan. However, they are required in new subdivisions where topography and development conditions allow sidewalk construction. Greenspace is required along streets in the Master Street Plan where sidewalks are not required.						
Note 2 - The Master Street Plan requires green space along streets.						
Note 3 – Section 1100.02 B specifies additional requirements for alleys.						
Note 4 - Grades of 12 % for residential require approval by the Fire Chief and Planning Commission.						
Note 5 – a. 30 feet for left turn lane b. 33 feet for left turn lane c. 60 feet for left turn lane						

(B) *Alleys. (Will Alleys be maintained as City Streets?)*

- (1) Alleys may be required at the rear of all lots used for nonresidential purposes where access for service and emergency vehicles is not otherwise adequately provided. Alleys may be permitted in residential areas.
- (2) All alleys must be paved, and meet the minimum street requirements with the center depressed to carry water. Curbs and gutters are not required. The paved width of an alley shall not be less than twenty (20) feet with a minimum right-of-way of not less than twenty-two (22) feet.
- (3) Where alleys are provided, intersections and sharp changes in alignment shall be avoided and dead-end alleys shall be avoided where possible.
- (4) No parking shall be allowed in alleys.

(C) *Easements.*

- (1) *Easements* across lots or centered on rear or side lot lines shall be provided for utilities and shall be at least ten (10) feet in width. Easements shall be provided where a subdivision is traversed by a water course, drainage way, channel or stream, or there shall be provided a storm water easement conforming substantially to the lines of the water course and shall be adequate for such intended purpose.
- (2) *The easement* width shall conform to the requirements as dictated by the City Council's designee for the intended purposes. No building or structure may be erected over or within an easement.
- (3) Major utility, drainage and other easements traversing the urban area shall be considered an opportunity for an open space linkage and an extension of the open space system for adjoining developing subdivisions. Where possible, pedestrian accommodations should link other open space corridors from these easements.

(D) *Utilities.*

- (1) *Coordination.* The sub-divider shall coordinate with the City, a government utility, or a private utility for the design, supply and installation standards and requirements of all utilities serving subdivisions within the planning jurisdiction of the City of Tontitown.
- (2) *Specifications.* All utility construction shall comply with all applicable codes of the City of Tontitown or the private utility having jurisdiction in the area of development, whichever is more stringent.
- (3) *Placement Underground.* In new commercial developments requiring Planning Commission approval all utility wires, lines, and cables in said developments utilized by electric and/or telecommunications companies shall be placed underground. Overhead wires, supporting structures, and associated structures of a temporary nature which provide temporary service are exempt from this requirement. A single power pole near the exterior boundary of a development shall be allowed to provide

connections for underground service. Placement of underground utilities in new residential development is strongly encouraged. Placement of underground utilities in new residential development where property is subdivided (excluding lot splits and minor subdivisions) is required.

(E) *Blocks.*

- (1) The lengths, widths, and shape of blocks shall be determined with regard to the following:
  - (a) Provision of adequate building sites suitable to the special needs of the type of use proposed.
  - (b) Zoning requirements met as to lot sizes and dimensions.
  - (c) Needs met for convenient access, circulation, and control and safety of street traffic.
  - (d) Limitations and opportunities caused by topography
- (2) Blocks of less than four hundred (400) feet in length or more than one thousand five hundred (1,500) feet in length shall be prohibited. Blocks of over one thousand (1,000) feet in length may require a public crosswalk within a dedicated easement of not less than fifteen (15) feet in width including a paved crosswalk not less than five (5) feet in width to provide pedestrian circulation.
- (3) Blocks intended for business and industrial uses should be of a width suitable for the intended purpose with due allowance for off-street parking and loading facilities.
- (4) Residential blocks shall be wide enough to provide two (2) tiers of lots of minimum depth except where fronting on freeways, expressways and major thoroughfares or prevented by topographic constraints in which case the Planning Commission may approve a single tier of lots of minimum depth.

(F) *Lots*

- (1) Every lot shall abut a public street. The shape of residential lots shall conform to the design of the subdivision. The Planning Commission shall judge lot shapes based on the type of development and the use for which the lot is intended.
- (2) Except as provided herein, the minimum lot dimensions shall conform to the requirements of the Zoning Ordinance for the zoning districts within which the subdivision is located. Within the Tontitown Planning Area outside the city limits, and subject to the requirements of the current Arkansas Department of Health Code, the minimum lot size shall be one (1) acre.
- (3) No lot shall be more than four (4) times as deep as it is wide.
- (4) The minimum building setback line shall be not less than twenty-five (25) feet from the planned right-of-way of the front street, or as required by the Zoning Ordinance.

Corner lots shall have a setback of twenty-five (25) feet from the planned right-of-way on each street, or as required by the Zoning Ordinance. Building lines may be less than twenty-five (25) feet, but in no case less than fifteen (15) feet, when the average slope of the first fifty (50) feet of a lot is greater than twenty percent (20%) gradient.

- (5) A minimum building setback line shall be established on the plat not less than twenty-five (25) feet from any floodway boundary.
- (6) Corner lots shall be at least seventy-five (75) feet in width at the building line to allow for side building lines. Corner lots should be roughly twenty percent (20%) larger than interior lots.
- (7) Double frontage lots.
  - (a) Lots other than corner lots fronting on two (2) streets shall not be platted except under extreme circumstances, and must be approved by the Planning Commission, in which case building lines shall be established for both front and rear lot lines.
  - (b) Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential developments and traffic arteries or to overcome specific topographic or site constraints.
  - (c) Where double frontage exists, a planting screen easement of at least ten (10) feet wide shall be provided along a portion of the lot abutting the traffic artery or other use where screening is required. In this circumstance there shall be no right of access across the planting screen easement.
  - (d) At the discretion of the Planning Commission, the developer may substitute for an easement and a planting screen, a permanent ornamental fence, or wall of the height and architectural character, which will be appropriate and appropriately screened. Should the ornamental wall or fence be used, there shall still be a restriction upon right of access and such restriction shall clearly be so designated on the plat.
  - (e) Every lot must slope to a street or to a drainage easement, or common property.

*(G) Access Requirements.*

- (1) The latest version of the Arkansas Fire Prevention Code shall prevail when considering the requirements of the following paragraphs. Any deviation thereto may be considered by the Tontitown Fire Chief.
- (2) Single Family and Two Family Access Requirements:
  - (a) The maximum number of single-family and two-family (2) residential units served by a single access shall be thirty (30).
  - (b) For more than thirty (30) living units, there shall be no fewer than two (2) separate and approved fire apparatus access roads.



- (c) For more than two hundred (200) living units, three (3) access routes must be provided.
- (3) Multi Family Access Requirements:
  - (a) Multiple-family residential projects having more than one hundred (100) dwelling units shall be equipped throughout with two (2) separate and approved fire apparatus access roads. **Exception:** Projects having up to two hundred (200) dwelling units may have a single approved fire apparatus road when all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the International Fire Code.
  - (b) Multiple-family residential projects having more than two hundred (200) dwelling units shall be provided with three (3) separate and approved fire apparatus access roads.
  - (c) A single access point to premises may have one (1) or more lanes in the same direction, but shall be considered one (1) access point. An access route is defined to be a continuous, uninterrupted vehicular travel way which begins as a departure from a collector (including sub-collectors), minor arterial, or major arterial, as defined in the Master Street Plan, and extends to the nearest point of each lot occupied by a living unit or living units, or, in the case of a single lot multi-family development, to the paved point nearest to each building housing living units. These access routes must be in the form of dedicated street rights-of-way, except for access routes within single lot multi-family developments, which may take the form of private drives upon the one (1) lot. Required access routes shall not overlap. An access point is the point of departure from an existing street or road from which the new project expects to gain access.

**Section 152.1000.03 Improvements and Standards**

*(A) General Provisions:*

Every sub-divider shall be required to install at his own expense or to have installed by the appropriate public utility, all of the improvements stipulated by the City and included in this Article, provided the subdivision is located within the boundary indicated on the official Planning Area Map filed in the Washington County Circuit Clerk's Office and the City Clerk's office, the required improvements listed in the following sections.

*(B) Construction Standards.*

- (1) All improvements shall conform to the standards established by this regulation that are in effect at the time of the pre-application conference.
- (2) An engineer, may be designated by the City Council's designee, and shall be authorized to enforce rules, regulations, standards, specifications, and other documents as necessary to established minimum criteria for the construction of streets

and utilities to be constructed within the City and within the limits of its planning area.

(C) *Authority of Designated City Engineer*

The engineer, designated by the City Council, shall have the authority to inspect any and all improvements to insure that they are in conformance with all plans, specifications, and any written agreements that have been approved by the Planning Commission. He has the authority to require the removal or replacement, at the expense of the developer, of any phase of the work that is not in accordance with the requirements of the plans approved in accordance with this regulation.

(D) *Conformance to Applicable Rules and Regulations.*

(1) In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:

- (a) All applicable statutory provisions.
- (b) City zoning (within the City Limits of Tontitown), fire, building, housing, floodplain, and all other codes and laws of Tontitown.
- (c) The Master Street Plan, the guidelines and general provisions of the Land Use Plan, and all other plans of the City, as adopted.
- (c) Any special requirements of the regulations and rules of the Arkansas Health Department and appropriate State agencies.
- (d) The rules of the Arkansas State Highway Department, if the subdivision lots contained therein abut a state highway or have a connecting street thereto.
- (e) Plat approval may be withheld if a subdivision is not in conformity with the purposes of these regulations.

(E) *Construction plans and specifications.*

(1) *Generally.*

- (a) Prior to the construction of any streets and utilities, the developer shall furnish two (2) complete sets of plans and specifications for such construction to the City for technical review. These documents shall be transmitted in writing.
- (b) A set of plans shall also be provided digitally in AutoCAD (DWG) format and MS-Word on CD tied to Arkansas State Plane NAD Coordinate System.
- (c) These plans and specifications will be reviewed for conformity with this regulation and the City standards.
- (d) The plans and specifications shall be approved in writing prior to any construction.
- (e) The City shall be notified prior to the beginning of construction so that the work may be inspected.

(2) *Plans.*

- (a) *General.* The plans shall be securely bound and shall consist of a title sheet and such plan-profile and detail sheets as are required to meet the requirements of

this regulation and to properly define the proposed work. The title sheet shall show the name of the subdivision, engineer, date, and an index of drawings. Each plan-profile will generally be drawn to a horizontal scale of no greater than one (1) inch to fifty (50) feet, and a vertical scale of one (1) inch to five (5) feet.

- (b) *Plan-profile sheets for streets and alleys.* There shall be a plan-profile for typical streets and alleys. The profile shall show the existing ground on each side of the street at the property line, the proposed grade of the top of the curb for each side of the street, location of utilities, and other information necessary to define the work. The existing and proposed street centerline grades may be shown in lieu of property line and curb grades when permitted.
- (c) *Plan-profile sheets for storm sewer.* The plans shall show all information necessary to locate and construct the proposed work and shall show the locations of all manholes, inlets, and other appurtenances of the system. The profile shall show the existing natural ground at the storm sewer centerline and the proposed grade at the centerline if such grade will not be the same as the existing grade. The size, grade, and material of the proposed pipes and the flow lines of all manholes, inlets, and other appurtenances shall be shown. Both the flow line and the inside top of the pipes shall be shown in the profile. These plans shall be accompanied by the engineer's calculations when requested by the City.
- (d) *Driveway Culvert Plan.* For developments wherein storm sewers do not serve drainage along street right-of-way, a plan designating the culvert size for each lot or entrance drive shall be prepared by the developer's Engineer.

- (3) *Specifications.* The specifications shall be securely bound and shall consist of the following minimum information: General condition of agreement, special conditions of agreement, and all applicable technical specifications. The special conditions shall contain provisions for time of completion, performance, and payment bonds, and other pertinent requirements as set forth by the Planning Commission, or the Mayor or his designee. In cases where the specifications provided are in conflict with Tontitown Specifications adopted by Ordinance, the Tontitown specifications shall govern.

(F) *Final inspection.*

- (1) Upon completion of construction, the developer shall arrange a final inspection of all streets and utilities. This inspection may be attended by the developer, his engineer, the contractor, and an engineer designated by the City Council.
- (2) If the engineer designated by the City determines that the street, utility, and stormwater infrastructure are complete and in accordance with the approved plans and specifications, he shall so inform the City in writing, and copy the developer. The

developer shall then transmit in writing to the City a notice of completion, the required bonds, and the record drawings.

(G) *Record Drawings of Project Completion.*

Upon completion of all required construction, and prior to the City's acceptance, the developer shall furnish the City with a complete set of reproducible and digital drawings, using the same format as contained in paragraph (E)(1) above, of all improvements. Said drawings shall depict all conditions and installations noting any changes made during construction and shall be marked "Record Drawings", and shall be signed by the engineer who prepared the plans and supervised the construction. In addition the developer shall submit to the City three (3) black line prints of the project.

(H) *Formal Acceptance by the City.*

- (1) After the work has been inspected, and the developer has been advised that the streets, utilities, and stormwater controls conform to approved plans, the developer shall give a formal notice of completion to the City. This notice shall be in writing and shall be accompanied by the reproducible and digital record drawings, payment, performance bonds, and all fees that are due.
- (2) After approval of final plat by the Planning Commission, the final plat, as approved by the Planning Commission, shall be submitted to the City Council for final approval. Such Council approval shall constitute formal acceptance of any dedication(s) shown on the plat.
- (3) No street or alley, which shall hereafter be dedicated to public use by the proprietor of grounds in the City, shall be deemed a public street or alley, or deemed to be under the care or control of the City Council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for that purpose. (say what?)

(I) *Streets*

- (1) *Minimum Thickness for Asphalt Paved Streets.* All asphalt-paved streets must meet the following requirements for minimum thickness for street construction:

<b>MINIMUM PAVEMENT THICKNESS FOR CITY STREETS</b>			
	Asphalt Surface Course	Asphalt Binder Course	Crushed Stone Base
Residential	1"	2"	7"
Collector and Sub Collector	1 ½"	2 ½"	10"
Minor Arterial	2"	2 ½"	10"
Major Arterial	Recommendation of City Engineer, City Council's designee, NWARPC, AHTD		

- (2) *Notification.* The City Engineer, Mayor or his designee shall be notified within twenty-four (24) hours prior to placement of any fill material, installation of storm drainage pipe or drainage structures, concrete curb and gutter, or placement of

crushed stone or asphalt. The sub grade shall be approved by the City Engineer or the City Council's designee prior to placement of curb and gutter or crushed stone.

(3) *Grading and Subgrade Preparation.*

- (a) The streets shall be shaped and graded in accordance with the approved street plans.
- (b) Street widths shall be as specified in Table 2, Street Classification and Design Standards, Section 152.1100.02(A)(12).
- (c) The sub grade fill section shall be compacted to ninety-five percent (95%) Modified Proctor Density (from back of curb to back of curb).
- (d) Soft, yielding sections of sub grade shall be removed and replaced in six (6) inch maximum lift thicknesses with each lift compacted with a sheep's foot roller (compaction with track equipment or other equipment not specifically designed for earthwork compaction is not suitable) to ninety-five percent (95%) Modified Proctor Density.
- (e) Fill material shall be approved by the City Council's designee prior to use in street fills (no top soil or organic material shall be included in the fill material). The moisture content of the fill material shall be plus or minus three percent (3%) of optimum.
- (f) All earthwork, including the sub grade (back of curb to back of curb) shall conform to the requirements of Sections 210 and 212 of Arkansas State Highway Department's "Standard Specifications for Highway Construction" latest revision.
- (g) Prior to placement of the crushed stone base course, the sub grade must field demonstrate by "proof rolling" that it is firm and unyielding to the passage of equipment (loaded tri-axle dump truck) over the sub grade. The sub grade shall be approved by the City Engineer or the City Council's designee before curb and gutter and crushed stone is placed.

(4) *Asphalt Street Standards*

- (a) The base shall consist of crushed stone base course conforming to the requirements of a Class 7 aggregate base course as specified in Section 303 of the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction" latest revision. The base course shall be prepared in accordance with Section 304 of the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction" latest revision.
- (b) The surface course shall consist of Asphaltic Concrete Hot Mix conforming to the requirements of Section 407 of the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction" latest revision.

(5) *Concrete Street Standards*

- (a) Sub grade is to be compacted in keeping with Arkansas Highway Department Standard Specification, Section 302. Concrete pavement is to be constructed according to Section 501 Portland Cement Pavement Specifications.
- (b) Concrete is to be three thousand pounds (3,000 lbs) PSI compressive strength placed on a thoroughly compacted and graded sub grade.
- (c) Concrete is to be placed in separate lanes with a maximum width of fifteen (15) feet. Transverse joints shall be two (2) inch wide felt strips, one-sixteenth inch (1/16) to one-quarter inch (1/4) thick, at fifteen (15) foot intervals for contraction joints.
- (d) The placed surface grade shall have a minimum thickness of eight (8) inches of concrete. Reinforcing tie bars shall be in general conformance with the Portland Cement Association and AASHTO recommendations.

(6) *Curbs and Gutters*

- (a) Curbs and gutters are required for all streets unless otherwise specified.
- (b) The curb and gutters shall be concrete twenty-four (24) inches in width with a six (6) inch upright curb as detailed on the approved plans.
- (c) Driveways along streets with this curb shall be constructed so that the curb height is reduced to one and one-half (1/2) inches across the driveway as per detail approved by the City Council's designee, or the City Engineer.
- (d) Expansion joints, one-half (1/2) inch pre-molded material, shall be placed on each side of drainage structures, at the ends of the radius at intersections and cul-de-sacs and at maximum one hundred (100) foot spacing throughout the length of the curb and gutter.
- (e) Expansion joints, one-half (1/2) inch premolded material, shall be provided in the sidewalk where abutting driveways, concrete curb and gutter or other rigid items and at one hundred (100) foot maximum spacing throughout the length of the sidewalk.
- (f) Material and construction shall conform to the requirements of Section 634 of the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction" latest revision.

(7) *Storm Drainage Pipe.* All storm drainage pipe shall be RCP Class III unless specifically approved otherwise by the City Engineer or the City Council's designee.

(8) *Debris Removal.* All mud and soil shall be removed from the crushed stone base and concrete curb and gutter prior to placement of the crushed stone course. Curb and gutter shall also be backfilled prior to placing crushed stone base course.

(J) *Alleys.* Alleys shall be concrete or asphalt paved and conform to Street Standards. The paving shall be formed in such a manner as to carry water longitudinally to the street or storm drainage system.

(K) *Storm Drainage.*

- (1) Every subdivision shall be served by a storm drainage system including drains, sewers, catch basins, culverts, ditches, drainage ways and other appropriate storm drainage facilities. All subdivisions shall be provided with a storm drainage system that is designed and constructed to handle rainfall runoff that originates or traverses the subject subdivision. Storm drainage capacity upstream and downstream of the property must be addressed in the project planning. Storm drainage for residential areas and for shopping centers, industrial areas, and highway commercial areas shall be designed for a ten (10) year rainfall frequency. The quantity of runoff shall be calculated using acceptable engineering methods of computation. Such computations shall be checked and approved by the City Council's designee. All drainage facilities shall be so designed to serve the entire drainage area and all surface drainage shall be transported to existing storm sewers or to drainage facilities as approved by the City Council's designee. The City Council's designee shall approve all drainage features.
- (2) The developer/sub-divider shall pay for all costs incurred within the internal drainage system including the cost of facilities to handle water coming into the subdivision from lands owned by parties other than the developer. The City may, at its discretion, participate in the cost of oversize storm sewer lines.
- (3) The size and capacity of storm drainage systems receiving the storm water discharge downstream of the subdivision shall be shown on the street plans and evaluated to determine if the downstream systems are adequate. Off site drainage improvements may be required by the City Council's designee if significant adverse impact is anticipated.
- (4) Provision shall be made to intercept and divert surface or concentrated storm water flows within or along the boundary into storm drainage systems. Generally, drainage areas greater than one (1) acre flowing onto or away from individual lots shall be intercepted in drainage ways located in drainage easements and routed into the subdivision storm drainage system.
- (5) All open ditches within the subdivision must be improved to prevent erosion and deterioration and shall be of length and slope to prevent erosion. They shall be drained into drainage ways or structures.
- (6) Storm drainage pipes, ditches, and drainage structures must be free of sediments, trash, and debris and ponding water prior to final approval of the streets. The development plans shall include and identify a prepared and dedicated flowage path or floodway that will accommodate a one hundred (100) year frequency storm event across and through the development. The quantity of water that the flowage path area must accommodate shall be based on a one hundred (100) year rainfall event less that accommodated by the underground storm drainage system. The flowage path or flowage area shall generally follow the natural low place or valley through the

development. It is anticipated that the street system or open ditches will be utilized where practical to accommodate the flowage path. Where the flowage path area leaves the street right-of-way, the area shall be shaped and graded to form a surface channel of adequate capacity to accommodate the flow with a positive downstream gradient along its entire length. The flowage path shall be uniformly graded along the length of the flowage path such that water will not pond or accumulate on the surface due to humps or depressions along the route. The flowage path shall be designed to receive one hundred (100) year runoff from the upstream adjacent property and properly discharge the runoff at the downstream limits of the flowage path. The estimated elevation of the one hundred (100) year flood shall be computed along the flowage path. Computations for the quantity of storm water runoff, sizing of the floodway and elevation of the one hundred (100) year flood shall be prepared by a registered professional engineer and submitted to the City Engineer or the City Council's designee for review and approval. The computations shall be made using usual and accepted methods and procedures as approved by the City Engineer or the City Council's designee. A flowage path will not be required where less than five (5) acres of adjacent lands drains onto the developed property and the total drainage area is less than five (5) acres.

- (7) An easement of adequate width to accommodate the required overland flow path shall be provided on the plat. The easement shall be clearly identified as a "100-Year Floodway". The plat shall have a note that reads as follows: "No structures, fill, or obstructions shall be placed in the '100-Year Floodway' easement. No reshaping of the surface within the '100-Year Floodway' easement shall be made without the approval of the City Engineer or the City Council's designee. No fences shall be in the drainage easement."
- (8) Minimum floor elevations shall be placed on the plat for all lots less than three (3) feet above the computed one hundred (100) year flood elevation. The minimum finished flood elevation shall be established at one (1) foot above the computed one hundred (100) year flood elevation.
- (9) Storm water detention or other storm water flow reduction measures shall be provided where existing downstream subdivisions or developments have storm drainage systems with a capacity of less than a ten (10) year frequency storm. The requirement does not apply to the inadequate natural streams or creeks flowing through undeveloped areas. The storm water detention facilities shall be designed to provide a holding area such that storm water runoff can be accumulated and released through at an outlet structure. The required storage volume and outlet structure shall be sized to release the storm water at a rate that does not exceed the capacity of the downstream storm drainage system or a computed runoff rate equal to that of the pre-development conditions of the proposed development, whichever is the greater. The detention



facilities shall be based on a twenty-five (25) year frequency storm event. Computations for the sizing of the detention facilities and outlet structure shall be prepared by a registered professional engineer and submitted to the City Engineer or the City Council's designee for review and approval. The computations shall be made using usual and accepted methods and procedures as approved by the City Engineer or the City Council's designee.

- (10) Detention basins may be either wet basins having a permanent pool of water for aesthetic purposes or a dry basin that retains no water other than that acquired during the storm event. A dry basin shall be graded and shaped to provide for the positive drainage of surface water from all portions of the basin. A concrete paved channel will be required from the inlet pipe to the outlet pipe to provide a maintainable bottom area.
- (11) An easement shall be placed around the high water limits of the detention area. Any surface discharge of wastewater shall be in accordance with requirements of the Arkansas Department of Pollution Control and Ecology. The downstream ("off-site") drainage route for any surface discharge shall be shown on the plat to the point of connection to a year round flowing stream.
- (12) In areas of steep and variable topography containing narrow hills, large ravines and naturally draining slopes into streams and creeks, the developer may seek approval from the Planning Commission to provide for storm drainage similar to existing development in the City of Tontitown. Such deviation shall incorporate LID (low impact drainage design) principles into the drainage system.

(L) *Other Utilities.* It is the intent of the City Council in adopting the provisions of these regulations related to public utilities that the existing subdivision regulations, codes and ordinances specifically pertaining to public utilities, whether in effect or hereinafter enacted, shall be and remain in effect and shall not be repealed by the enactment of this subdivision ordinance.

(1) Water supply.

- (a) Where a public water supply is within one-quarter (1/4) mile, the developer shall install or have installed a system of water mains and connect to such supply. No street cuts for utility connections will be allowed on existing paved streets or new streets after the street has been paved.
- (b) Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system approved by the State Department of Health. The water system may be a central type system or individual private wells. If a central water system is employed a property owners association and suitable bylaws must be in place to ensure the proper operation of the system supervised by an individual licensed to provide such oversight.
- (c) Fire hydrants shall be required in all subdivisions. The maximum distance between fire hydrants shall be one thousand (1000) feet in residential areas, and

five hundred (500) feet in commercial and industrial areas. The placement of fire hydrants shall be no more than ten (10) feet from the planned edge of the street.

- (d) In the event that a private well system is to be employed, the developer shall place the following note on the final plat and shall state the following in the covenants of the subdivision: “Each developed lot shall connect to an approved public water system within twelve (12) months of availability and each lot shall share construction expense for connection as prescribed by the Tontitown Water & Sewer Commission.”
- (2) *Sewage disposal.* If for any reason the city-wide public sanitary sewer system in Tontitown is not accessible to the developer, an alternate method of sewer disposal system may be used when in compliance with the standards and policies of the Tontitown Water & Sewer Commission and the Arkansas Department of Health, and these regulations. However, the developer shall insert on the final plat and within the covenants for the subdivision the following: “Each developed lot shall connect to the City of Tontitown sewer system within eighteen (18) months of availability to the lot and each lot shall share in the construction costs for connection as prescribed by the Tontitown Water & Sewer Commission.”
- (3) *Utility design criteria.*
  - (a) *Water supply and distribution.* All subdivisions shall be provided with water supply and water distribution systems approved by and meeting the requirements of the State Department of Health. Specifications shall, at a minimum, comply with requirements of the Arkansas Fire Prevention Code.
  - (b) *Water service connections.* Water service connections shall be provided for every lot in the subdivision and the respective water system specifications shall govern the size and material used in the installation of water service connections.
- (4) *Private water supply, septic tanks and absorption systems.*
  - (a) Where a public water supply is not available, or a public sanitary sewer is not accessible, a certificate or letter from the county health department shall be presented showing the results of soil morphology or percolation tests for septic tanks and a statement as to the ability of soil to absorb water. The statement must set out that septic tanks meet the requirements of the State Health Department. The letter shall also state the State Health Department's recommendation as to the approximate recommended depth of wells, if known. If unknown, the subdivider shall sink a test well to enable the state health officer to evaluate the adequacy of the individual well water supply. The statement must set out that the well meets the requirements of the State Health Department.
  - (b) Whenever an on-site septic tank and an absorption system or water supply is to be provided, the sub-divider shall require, as a condition in the covenants of the subdivision, that those facilities shall be installed by the builders of the improve-

ments in accordance with regulations and in compliance with the standards of the Arkansas State Department of Health.

(M) *Street Name Markers.* Street name signs shall be placed on diagonally opposite corners of each street intersection in conformance with the specifications adopted by the City. Street name markers shall be installed by the City at the developer's expense. Design of the markers and signs shall conform to the City's standards.

(N) *Pedestrian Accommodations.* These accommodations shall consist of sidewalks and trails, or other reasonable alternatives for connectivity, within any new application for subdivision approval in accord with these Regulations.

(1) The requirement for pedestrian accommodations shall be finalized and agreed to by the City and owner/developer during the review of the preliminary plat and at the time the preliminary plat is approved. It shall be the policy of the City to require sidewalks along all streets within all business and commercial developments and pedestrian accommodations in new residential developments. When sidewalks are required, they shall be constructed on each side of all streets within business and commercial development which are fronted with commercially-zoned tracts, and provide pedestrian accommodation within residential developments.

(2) *Exceptions:*

(a) A minor replat not creating any new lots shall not require the construction of pedestrian accommodations.

(b) Subdivisions with lots having a minimum of two hundred (200) feet of street frontage for interior lots or the shortest frontage of a minimum of two hundred (200) feet for corner lots shall not require the construction of pedestrian accommodations.

(c) Dead end cul-de-sac streets having a total length not exceeding three hundred (300) feet from the intersecting street centerline to the center of the cul-de-sac shall not require a pedestrian accommodation providing that such accommodations are provided linking cul-de-sacs and other streets exempted under this provision.

(d) Subdivisions served or to be served with pedestrian accommodations through a property owners association or sub-association shall not require the above connectivity, provided, however, that the proposed subdivision includes satisfactory connectivity to the property owner's association facility. A bond posted by the developer to build the required connectivity will be required in the event a property association facility is not built within eighteen (18) months. (Consider removing)

- (3) All pedestrian accommodations shall be handicap accessible to public streets at street corners and at designated mid-block public service drives and alleyways. Sidewalks shall meet American Disability Act standards.
- (4) The City of Tontitown shall be responsible for the maintenance of all sidewalks and trails constructed within dedicated public right-of-way.
- (5) Pedestrian accommodations shall link adjoining lots so as to provide a continuous "ribbon" of pedestrian access within the subdivision submitted for approval, and shall connect to existing sidewalk or trails, if any, that terminate at the boundary of the proposed subdivision.
- (6) Pedestrian accommodations shall be a requirement for all new and pending subdivisions submitted to the City of Tontitown for formal review. This requirement applies to the entire Tontitown Planning Area.
- (7) If, during the construction of a building or any other improvements upon a lot or by any other actions, the sidewalk or trail is damaged, the party responsible for the construction or other actions shall repair the sidewalk or trail to the satisfaction of the City.
- (8) *Specifications for acceptable pedestrian accommodations.*
  - (B) Sidewalks
    - (a) *Size.* Sidewalks shall be a minimum of four (4) or six (6) feet wide depending on street classification and four (4) inches thick with the cross section approved by the City Engineer.
    - (b) *Grades; establishment of property lines.* All sidewalks, streets, curbing and guttering, and driveway approaches shall be constructed in grades as established by the City Engineer. It shall be the responsibility of the owner to establish property lines by competent survey at his own expense.
    - (c) *Sidewalk distances from the curb.* The sidewalk shall be installed in the dedicated public right-of-way. The edge closest to the street shall generally be a minimum of two (2) or (4) feet from the back of the curb line depending on street classification unless specifically approved otherwise.
    - (d) *Cement-concrete requirements.* All sidewalks shall be constructed of a Portland cement concrete mixture which will produce a concrete of a compressive strength of three thousand (3,000) pounds per square inch after twenty-eight (28) days set under standard laboratory methods.
    - (e) *ADA guidelines.* Sidewalks shall conform to the latest ADA guidelines.
    - (f) *Sidewalk grade continuous through driveways.* Driveways shall be constructed to conform to the slope and grade required to accommodate the sidewalk.
    - (g) *Sidewalk elevation.* The sidewalk elevation shall be two (2) percent above the top of the curb, sloping two (2) percent towards the curb (one-fourth inch

(1/4) in each foot). This elevation shall be continuous through the driveway approach.

- (h) *Driveway approach.* The area remaining between the sidewalk and the flow-line of the gutter, called the approach to the driveway, shall slope up to the elevation of the sidewalk.
- (i) *Joint material.* Wood shall not be acceptable in sidewalks for expansion joints. The joint material shall be the same as approved for AHTD sidewalk construction (AASHO M 213).
- (j) *Expansion joint.* Full depth expansion joints four (4) inches shall be provided at intervals not greater than fifty (50) feet. One-quarter (1/4) inch depth weakened plane joints, or saw-cut joints, shall be placed in sidewalk at regular intervals not greater than five (5) feet apart.
- (k) *Edges.* All sidewalks shall have one-half (1/2) inch rolled edges.
- (l) *Removal/replacement.* Removal and replacement of broken sidewalks require vertical saw-cuts on both ends of the sidewalk being replaced.
- (m) *Design Waiver.* A waiver from these design standards may be granted for the following, but not limited to, topographical difficulties, tree preservation, and aesthetics. The Planning Commission may approve these waivers. Field waivers, for location only, may be granted upon agreement of the City Council's designee, if special situations justify such waivers. Special conditions may be required in order to grant the waivers.

(C) *Trails.*

- (a) *Size:* Trails shall be a minimum of six (6) feet wide.
- (b) *Asphalt Surface:* Surface shall be a minimum of two (2) inches thick built on four (4) inches of Class 7 Base.
- (c) *Concrete Surface:* Surface shall be a minimum of four (4) inches thick. Sub-base shall be cleared and grubbed of all vegetative material and compacted to 90 percent proctor.
- (d) The trail right of way shall be dedicated to the City and shall be clearly noted on the final plat.
- (e) All construction shall be within the subdivision property and at least four (4) feet from the edge of any subdivision property line.
- (f) Trails shall be built to provide convenient connectivity to all facilities in the development.
- (g) The trail shall be built to be convenient for connection to future walkways that provide connectivity to recreation, commercial, civic, or public areas.
- (h) The cross slope of the trail shall be two (2) percent maximum and one (1) percent minimum. The running slope of the trail shall be five (5) percent for a continuous slope and eight (8) percent for a maximum distance of thirty (30) feet.
- (i) The sight distance on the trail shall be not less than 50 feet.

- (j) Roadway or street crossing shall be at grade and shall be as close as possible to an intersection.
- (k) Sufficient drainage devices shall be provided along the trail layout to prevent flooding.
- (l) Proposed trails within the floodplain must be reviewed and approved on a case-by- case basis.
- (m) Generally, trail design guidelines and recommendations of the City Engineer should be utilized when developing a trail layout and proposed usage.
- (n) Design Waiver. A waiver from these design standards may be granted for topographical difficulties, tree preservation, aesthetics, etc. The Planning Commission may approve these waivers. Field waivers, for location only, may be granted upon agreement of the City Engineer, if special situations justify such waivers. Special conditions may be required in order to grant the waivers.

*(O) Street Lighting.*

The developer shall comply with any Street Lighting Policy in effect by the City of Tontitown.

*(P) Special Exceptions.*

- (1) The Commission, upon the request of the subdivider, may waive the requirements of specifications and design. Whenever the tract to be subdivided is of such unusual size and shape or is surrounded by such development for unusual conditions that the strict application of the requirements contained herein would result in a substantial hardship or inequity, such modification may be granted upon written request of the sub-divider or his agent stating the reason or reasons for each modification. The approval of such modifications shall each require two-thirds (2/3) vote of the full membership of the Planning Commission.
- (2) The Planning Commission, upon request of the sub-divider, may permit special exceptions to be made to the improvements required by the rules and regulations when, in the opinion of the Planning Commission, such exceptions are in keeping with the intent of these rules and regulations and when exceptions will provide for a development which will be in conformance with existing platting of the general neighborhood of the proposed subdivision. The subdivider may be required to furnish special information in order to aid the Planning Commission in its determinations. This approval shall also require two-thirds (2/3) vote of the full membership of the Planning Commission.
- (3) Personal hardship and financial considerations are not deemed overriding factors for the granting of a variance, exception or waiver
- (4) Conditions may be required in order to grant any variance, exception or waiver.

**ARTICLE 152.1100 IMPROVEMENTS**

Section 152.1100.01. General Provisions.....

Section 152.1100.02. Determining Necessity for Off-Site Improvements.....

Section 152.1100.03. Fee-In Lieu for Delayed Improvements.....

Section 152.1100.04. Waivers.....

Section 152.1100.05. Off-site Improvements to State Highways and Highways Maintained by the State Highway and Transportation Department.....

Section 152.1100.06. Performance Gaurantees.....

**SEC. 152.1100.01 General Provisions**

- (A) *Generally.* The sub-divider shall be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed subdivision, in accordance with Sec. 1100.2 Determining Necessity for Off- Site Improvements. For purposes of this section, an off-site improvement shall mean any improvement listed in these regulations which are to be installed on property located outside the proposed subdivision.
- (B) *Installation.* Any required off-site improvements shall be installed according to city standards; provided off-site improvements to roads located outside the city’s corporate limits but within the city’s planning area shall be installed to county standards. The sub-divider shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the subdivision.
- (C) *Proportionate Share.* At the time the Planning Commission grants preliminary plat approval, the Planning Commission shall determine whether the proposed subdivision creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the sub-divider shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city’s corporate limits but within the city’s planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the sub-divider shall be required to bear the Planning Commission shall consider the acreage within the proposed subdivision as a percentage of all the acreage which, when fully developed will benefit from the off-site improvements; provided, the Planning Commission may use a different method of measurement if it determines that use of the acreage standard will not result in the sub-divider bearing that portion of the cost which bears a rational nexus to the needs created by the subdivision.

**SEC.152.1100.02 Determining Necessity For Off-Site Improvements**

- (A) *Indirect Access to Substandard Streets.* When a proposed subdivision has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the subdivision to the paved streets or roads, the sub-divider shall be responsible for contributing his proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The sub-divider’s proportionate share of said costs shall be determined by the Planning Commission in accordance with the provisions of Sec. 1100.1.
- (B) *Direct Access to Substandard Streets.* When a proposed subdivision has direct access to, or fronts on, an existing road or street which is below current standards, the sub-divider shall be responsible for contributing his proportionate share of the cost of improving said street or road to existing city standards. The Planning Commission shall determine the sub-divider’s proportionate share of said costs in accordance with the provisions of Sec. 1100.1.
- (C) *Off-site Drainage.* Off-site drainage improvements shall be required whenever a proposed subdivision causes the need for such improvements.

**SEC. 152.1100.03 Fee-In Lieu For Delayed Improvements**

If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the sub-divider shall pay to the city an amount determined by the Planning Commission in accordance with the standards prescribed in subsection 1100.1 above to be the developer’s proportionate share of the cost of said off-site improvements as of the date of final plat approval. The city shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed. If the off-site improvement is not constructed within five (5)



years from the date of the first payment into the escrow account by a sub-divider, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

- (A) Determine that the off-site improvement is still necessary and feasible and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or
- (B) Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall either:
  - (1) Refund the money in the escrow account, with accumulated interest, to the subdividers who made the contributions; or
  - (2) Distribute the money in the escrow account on a pro rata basis to the property owners who purchased lots in the subdivision(s) and the sub-divider(s); or
  - (3) With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the sub-divider(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.

#### **SEC. 152.1100.04 Waivers**

A sub-divider may petition the Planning Commission for a waiver of off-site improvement requirements in whole or in part on one or more of the following grounds:

- (A) *No plans for upgrading.* The city has no plans for upgrading the substandard street or road on which off-site improvements are proposed to be required by the sub-divider.
- (B) *Primary access to improved streets.* The proposed subdivision has primary access to improved streets or roads and the portion of the subdivision which fronts on a substandard street or road is so small or remote from anticipated future traffic patterns as to cause an unfair imposition on the sub-divider.
- (C) *Alternate Off-site Improvements.* The subdivider proposes alternative off-site improvements which will protect the health, safety and welfare of persons residing in the proposed subdivision and the surrounding area and equally benefit said persons.

#### **SEC. 152.1100.05 Off-Site Improvements To State Highways and Highways Maintained by the State Highway and Transportation Department**

The sub-divider shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed subdivision into conformance with the right-of-way requirements of the Master Street Plan. The sub-divider shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed subdivision; provided, the sub-divider shall be permitted to make a cash contribution in lieu of actual installation, which contribution shall be an amount equivalent to the estimated cost of constructing the required sidewalk as of the date of final plat approval; and, provided further, that the Planning Commission may waive the sidewalk requirement prescribed by this section upon application by the sub-divider and a determination

by the Planning Commission that the topography of the proposed subdivision where it abuts a state highway is such that installation of a sidewalk is not practical. No other improvements to state highways shall be required of the sub-divider unless required by the State Highway and Transportation Commission.

**SEC. 152.1100.06 Performance Guarantees**

At or prior to the preconstruction conference with the City, the owner/developer shall provide to the Building Official a performance guarantee for off-site improvements in compliance with Sec. 300.11.

**ARTICLE 152.1200 TREE PRESERVATION AND PROTECTION**

Section 152.1200.01. Purpose.....

Section 152.1200.02. Objectives.....

Section 152.1200.03. Administration and Appeals.....

Section 152.1200.04. Establishment of a Tree and Landscape Advisory Committee.....

Section 152.1200.05. Tree Planting, Maintenance and Removal.....

Section 152.1200.06. Penalty.....

Section 152.1200.07. Stop Work Order.....

Section 152.1200.08. Severability.....

**SEC. 152.1200.01 Purpose**

The purpose of this ordinance is to preserve and protect the natural beauty of Tontitown and protect the health and safety of its citizens through the regulation of the maintenance, planting and removal of trees within street rights-of-way or on other public grounds within the City of Tontitown.

**SEC. 152.1200.02 Objectives**

Objectives of this ordinance include, but are not limited to, the following:

- (A) To save trees on public property from indiscriminate destruction or unnecessary removal.
- (B) To moderate the effects of sun, wind, and temperature changes.
- (C) To filter pollutants from the air and release oxygen.
- (D) To stabilize soil and prevent erosion.
- (E) To preserve desirable trees.
- (F) To establish an education program providing information and guidelines for tree preservation and maintenance.

**SEC. 152.1200.03 Administration and Appeals**

- (A) Administration. The Building Official or his/her designee(s) shall be charged with the general administration of this ordinance. The Planning Commission will be available for consultation and recommendations to aid in administration of this ordinance.
- (B) Appeals. Appeals from the decisions of the Building Official shall be in writing to the Planning Commission, unless otherwise herein. Notice of appeal should be addressed to the City Clerk and filed within 10 days of the decision of the Building Official.

**SEC. 152.1200.04 Tree Planting, Maintenance and Removal**

- (A) City Action. The City shall have the right to plant, prune, maintain, and remove trees within all street rights-of-way, alleys, squares, and other public grounds, as may be necessary for the following purposes:
  - (1) To increase visibility of any traffic control device or sign.
  - (2) To preserve or enhance the symmetry and beauty of such public grounds.
  - (3) To ensure street lighting properly spreads along the street.
- (B) Standards. All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the City of Tontitown Landscape Manual, which will be established and periodically reviewed by the Tree and Landscape Advisory Committee.
  - (1) It shall be a violation of this ordinance to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill or any other thing to any such tree.
  - (2) It shall be unlawful for any person to top or cut back to stubs the crown of any tree in street rights-of-way or on other public grounds.
  - (3) Trees shall not be planted to conceal a fire hydrant from the street or impede the line of sight on any street.
  - (4) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this ordinance.

- (C) Notification. Trees may not be planted in or removed from street rights-of-way or on other public grounds without notification to the Building Official; and, providing the selection and location of said trees are in accordance with the guidelines of this ordinance.
- (D) Training. City employees performing tree work on public grounds shall attend an educational workshop on basic tree science and the proper techniques of tree pruning. A certificate will be issued when an individual has successfully completed the workshop.

**SEC. 152.1200.05 Penalty**

Unless contradictory to any penalty set forth herein above, any person violating any provision of this ordinance or who fails to comply with any notice issued pursuant to the provision of said ordinance, upon conviction or a plea of guilty, shall be subject to a fine not less than Twenty-Five Dollars (\$25.00) nor more than One Thousand Dollars (\$1000.00) for each separate offense.

**SEC. 152.1200.06 Stop Work Order**

The Building Official may issue a stop work order directing the parties involved to cease and desist all work which does not comply with the Tree Preservation Ordinance. A hearing will be held within 48 hours of the issuance of the stop work order as provided in section 152.1200.03 of this article.

**SEC. 152.1200.07 Severability**

- (A) Should any section, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so invalidated.
- (B) If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

**ARTICLE 152.1300 LANDSCAPING, SCREENING AND BUFFERING**

Section 152.1300.01. Purpose.....

Section 152.1300.02. Objectives.....

Section 152.1300.03. Applicability.....

Section 152.1300.04. Exemptions.....

Section 152.1300.05. General Provisions.....

Section 152.1300.06. Landscape Plans.....

Section 152.1300.07. Landscaped Street Frontage Buffer.....

Section 152.1300.08. Interior Parking Lot Landscaping.....

Section 152.1300.09. Landscaped Perimeter.....

Section 152.1300.10. Residential Landscaping.....

Section 152.1300.11. Landscape Installation Requirements.....

Section 152.1300.12. Recommended Trees and Shrubs.....

Section 152.1300.13. Tree Preservation Credits.....

Section 152.1300.14. Enforcement and Maintenance.....

Section 152.1300.15 Alternative Methods of Compliance.....

Section 152.1300.16 Screening.....

Section 152.1300.17 Fence and Wall Requirements.....

Section 152.1300.18 Landscaping for Wireless Communication Facilities (WFF).....

**SEC. 152.1300.01 Purpose**

The purpose of this article is to ensure a minimum of open space and green area as an integral part of new development and to protect the health and welfare of its citizens through the regulation of landscaping of new multi-family, commercial and industrial developments.

- (A) Landscaping enhances the environmental and visual character of the community.
- (B) Green space requirements preserve and stabilize the area’s ecological balance by establishing a healthier environment.
- (C) Green areas help to mitigate the negative effects of air and noise pollution by using plants as buffers.

**SEC. 152.1300.02 Objectives**

Landscaping should be an integral part of a development. This article is designed to promote high quality developments, protect property values and public investment in our community. Objectives of this ordinance include, but are not limited to, the following:

- (A) To moderate the effects of sun, wind, and temperature changes.
- (B) To filter pollutants from the air and release oxygen.
- (C) To stabilize soil and prevent corrosion.
- (D) Do encourage preservation of desirable trees.

**SEC. 152.1300.03 Applicability**

The requirements of this ordinance shall apply to:

- (A) New development. All new public, private, and institutional developments.
- (B) Additions. Additions over ten (10) percent of the gross floor area of the building or more than 2,500 square feet, whichever is more.

**SEC. 152.1300.04 Exemptions**

- (A) Residential. Single family residential and duplex residential are exempt from these regulations with the exception of Sec. 152.1300.10 Residential Landscaping.
- (B) Additions. Additions to existing structures that are under ten (10) percent of the gross floor area of the building or 2,500 square feet, whichever is less, are exempt.
- (C) Previous approval. Previously approved developments, which have been given a permit to begin building construction are exempt.

**SEC. 152.1300.05 General Provisions**

- (A) *Sight distances.* Safe sight distances at intersections and points of access must be maintained. No landscaping shall constitute a hazard to traffic including, but not limited to landscaping located within the sight triangle of an intersection.
- (B) *Wheel stops.* Except as provided below, all project landscape areas at the front line of off-street parking spaces may be protected from encroachment or intrusion of vehicles through the use of wheel stops.
  - (1) *Minimum height.* Wheel stops shall have a minimum height of six inches (6”) above finished grade of the parking area.
  - (2) *Anchoring.* Wheel stops shall be properly anchored and shall be continuously maintained in good condition by the property owner.
  - (3) *Location.* Wheel stops shall not be placed in locations of anticipated pedestrian traffic.

- (C) *Soil and climatic conditions.* Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for the growth habits. Plants used in the landscape design shall to the greatest extent be:
  - (1) Appropriate to the conditions in which they are to be planted;
  - (2) Have non-invasive growth habits;
  - (3) Encourage low maintenance, high-quality design; and
  - (4) Be otherwise consistent with the intent of this chapter.
- (D) *Replacement.* Vegetation planted or preserved according to an approved plan shall remain alive for a minimum of three (3) years from date of certificate of occupancy. Vegetation planted or preserved that does not remain alive for three (3) years shall be replaced with equivalent vegetation. Preserved trees for which credit was awarded but which subsequently die, shall be replaced in accordance to the Tree Preservation Credits table in Sec. 152.1300.3 Tree Preservation Credits.
- (E) *Irrigation.* Required landscaping shall be irrigated by one of the following methods:
  - (1) An underground sprinkling system;
  - (2) Automatic drip system; or,
  - (3) A hose attachment within 100 feet of all landscaped areas.

**SEC. 152.1300.06 Landscape Plans**

The landscaping plan is required to address three requirements:

- (1) Street frontage buffer as required in Sec. 152.1300.7;
- (2) Interior parking lot landscaping as required in Sec. 152.1300.8; and,
- (3) Perimeter landscaping as required in Sec. 152.1300.9.

The following information is required on landscape plans and shall be completed by a licensed landscape architect or landscape professional in order for staff to review for compliance with this article.

- (A) Existing vegetation. Location, general type and quality of existing vegetation, including specimen trees.
- (B) Preservation. Existing vegetation to be saved.
- (C) Protection. Methods and details for protecting existing vegetation during construction and approved sediment control plan, if available.
- (D) Proposed plants. Locations and labels for all proposed plants.
- (E) Landscape details. Plant lists with the botanical and common names, quantity, spacing and size of all proposed landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.
- (F) Installation details. Planting and installation details as necessary to ensure conformance with all required standards.
- (G) Sight triangle. The sight triangle, as described in Sec. 152.1300.5 (A) Sight Distances, shall be indicated on the plan with a dimensioned shaded area.
- (H) Irrigation. The plans shall indicate the type of irrigation to be used, in accordance with Sec. 152.1300.5 (E). If a hose bib is proposed, the location shall be shown on the plan.
- (I) Three-year guarantee. Guarantee from the developer that all plant materials will be warranted for a period of three (3) years from the time of installation. If any of the material should fail to survive during that period it would be replaced during the appropriate planting season.



**SEC. 152.1300.07 Landscaped Street Frontage Buffer**

The street frontage buffer is the planting area parallel to the public street right-of-way.

(A) Purpose. The landscaped street frontage buffer serves two primary purposes:

- (1) When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians therefore creating a safer environment.
- (2) It also provides an aesthetically pleasing transition from the public right-of-way to private property.

(B) Prohibitions. Parking, merchandise display and off-street loading are prohibited in the landscaped street frontage buffer.

(C) Buffer Options. The site plan for any development, other than that exempt in Sec. 152.1300.4 Exemptions, shall show a landscaped street frontage buffer along all public right-ofways. The applicant may choose one or a combination of five (5) options illustrated below to meet the particular site constraints of the development.

(1) 1. 10' Buffer Strip:

- (a) *Minimum width:* Ten (10) feet.
- (b) *Minimum number of trees required:* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (c) *Minimum number of shrubs:* Ten (10) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(2) 2. Earth Berm:

- (a) *Minimum height.* Two and one-half (2 1/2) feet higher than the finished elevation of the parking lot.
- (b) *Minimum number of trees:* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (c) *Minimum number of shrubs:* Three (3) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(3) 6' Buffer Strip:

- (a) *Minimum width.* Six (6) foot landscaped street buffer with three (3) feet of fall.
- (b) *Minimum number of trees.* One (1) shade tree and one (1) ornamental tree per twenty-five (25) linear feet of street frontage.
- (c) *Minimum number of shrubs.* Three (3) shrubs per twenty-five (25) linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(4) Wall.

- (a) *Minimum height.* Three (3) foot high wall made of brick, stone, or finished concrete.
- (b) *Minimum buffer area.* Four (4) foot buffer area along street right-of-way.
- (c) *Minimum number of trees:* One (1) shade tree per twenty-five (25) linear feet along street frontage.

(5) 25' Buffer Strip: A landscaped buffer area with existing woodlands maintained in twenty-five (25) foot strips along the street frontage.

(D) Groundcover.

- (1) Living material. Living materials, such as grass, shall make up a minimum of 80% of the groundcover for the landscaped street frontage buffer. 100% of living materials is strongly encouraged.

- (2) Mulch. Wood mulch may make up 20% of the groundcover for the landscaped street frontage buffer. Weed barrier shall be required. Gravel, concrete, brick pavers or other pavement is not appropriate groundcover for the street frontage buffer.
- (E) Massing. Massing is multiple rows of alternating plant materials with a combination of trees and shrubs. Massing is strongly encouraged. The maximum distance between massing is 25 feet. Massing should be integrated into a bed or in a curb to ease maintenance.
- (F) Street Tree Corridor Plan. For developments along a street designated on the Street Tree Corridor Plan, developers are encouraged to use the trees recommended in the plan. If a developer follows the Street Tree Corridor Plan, the Planning Commission may approve up to a 10 percent reduction in the number of shrubs required.

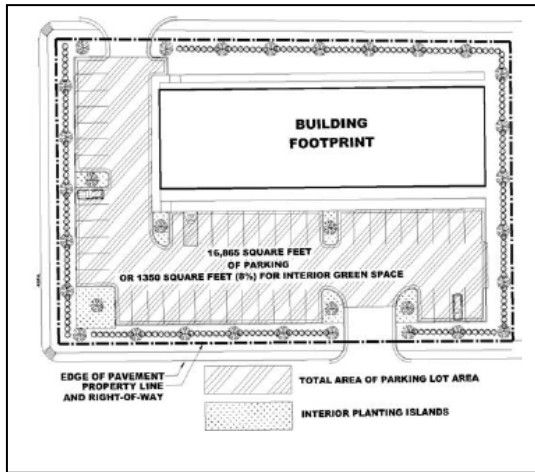
**SEC. 152.1300.08 Interior Parking Lot Landscaping**

Interior parking lot landscaping is the planting area within and adjacent to parking areas.

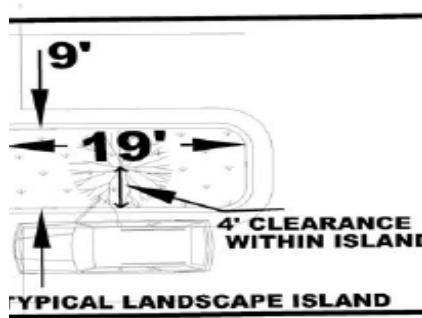
- (A) Purpose. The interior parking lot landscaping requirement serves several purposes:
  - (1) It provides necessary green space to give relief to expansive parking areas with nothing but asphalt.
  - (2) Trees provide shade and serve as windbreaks.
  - (3) Planting islands assist with vehicular circulation.
- (B) Applicability. Interior parking lot landscaping requirements apply to all parking lots that are required in the Zoning Code, Article 501 Parking and Loading to have 14 or more parking spaces.
- (C) Requirement. The site plan shall show interior parking lot landscaping. A sliding scale to determine the amount of landscaping area per lot has been included in order for the applicant to include these landscaping requirements as an integral part of the site development.
  - (1) Standard. Percent (%) of the total area of parking lot dedicated to interior planting shall be as follows:

<b>Interior Landscaping Requirements</b>	
<b>Total Area of Parking Lot</b>	<b>Minimum % Dedicated to Interior Landscaping</b>
3,000-49,999 sq. ft.	8%
50,000-149,000 sq. ft.	10%
150,000 sq. ft. or larger	15%

- (2) Calculating Lot Area. Diagram A, Calculating Lot Area, illustrates what areas of the lot are considered when determining the total area of the parking lot. The total amount of landscape area for the interior lot is determined by figuring 8%, 10%, or 15% of the total parking lot area as explained below.
  - (a) *Included in calculation.* The square footage of all areas within the parking lot's perimeter are counted, including the planting islands required, curbed areas, corner lots, parking spaces and interior driveways and aisles.
  - (b) *Excluded from calculation.* Driveways and aisles with no parking spaces located on either side, buildings, street frontage buffer, and perimeter strips are not counted. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement
- (3) Planting islands. Planting islands are required as a part of the landscape area percentage in the interior parking lot area.



(a) *Dimensions.* The dimensions of a parking island must be a minimum of nine (9) feet by nineteen (19) feet, the same as a parking space, and must be curbed to protect landscaping and trees.



(b) *Minimum number required.* No more than 15 parking spaces shall be permitted in a row without interruption by a parking island. If 13 or more spaces remain, a parking island is required. In parking lots over 150,000 square feet, the number of parking islands can be reduced but the total square footage of landscape area must remain according to the requirements.

(4) **Trees.** Trees are required to be planted in the interior parking area to offer shade from the heat and sun.

(a) *Minimum number required.* One (1) shade tree per planting island is required for the interior parking area.

(b) *Location.* These trees shall be planted within the island.

(c) *Clearance.* Four-foot (4') clearance shall be left for car doors to open from adjacent parking spaces.

(5) **Groundcover.** All interior parking lot landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover. Weed barrier shall be required.

(a) *Living material.* Living materials, such as grass, shall make up a minimum of 60% of the groundcover for the interior parking lot landscaping. 100% of living materials is strongly encouraged.

(b) *Non-living material.* Non-living materials, such as wood mulch or decorative rock (¾" or smaller gravel in a natural color tone), may make up 40% of the groundcover for the interior parking lot landscaping. Weed barrier shall be required.

(c) Brick pavers or other pavement is not appropriate non-living groundcover.

(D) **Vehicular display areas.** Applicants shall select one of the following options for vehicular display areas:

- (1) Compliance with standard. Comply with the interior parking lot landscaping requirements described in this section and the required street frontage requirements in Sec. 152.1300.7; or,
- (2) Increase street frontage buffer. In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to 15' wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.

**SEC. 152.1300.09 Landscaped Perimeter**

Perimeter landscaping is a peripheral planting strip along rear and side lot lines that separates uses.

(A) Purpose. Perimeter landscaping:

- (1) Defines parking areas;
- (2) Prevents two adjacent lots from becoming one large expanse of pavement;
- (3) Provides vegetation in densely developed areas; and,
- (4) Enhances the appearance of individual properties.

(B) Requirement. The site plan for any development, other than that exempt in Sec. 152.1300.4 Exemptions, shall show perimeter landscaping, in addition to the landscaped street frontage buffer required in Subsection 152.1300.6(A)..

- (1) Width. A five (5) foot landscaped strip is required along the side and rear lot lines of a development.
- (2) Minimum number of trees. One (1) tree per fifty (50) linear feet.
- (3) Groundcover. All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
  - (a) *Living material.* Living materials, such as grass, shall make up a minimum of 80% of the groundcover for the landscaped perimeter. 100% of living materials is strongly encouraged.
  - (b) *Mulch.* Wood mulch may make up 20% of the groundcover for the landscaped perimeter. Gravel, concrete, brick pavers or other pavement is not appropriate nonliving groundcover. Weed barrier shall be required.

(C) Vehicular access. The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.

(D) Adjacent properties. The five (5) foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.

(E) Pavement. No pavement may extend within five (5) feet of the property line on any lot unless it is included with an ingress/egress location.

**SEC. 152.1300.10 Residential Landscaping**

A minimum of one shade tree or two ornamental trees, as specified by 152.1300.11 B. Minimum size, shall be planted in the front yard of each new residential lot in the RE, R1 and R2 residential districts. Trees existing in the front will be credited. The tree or trees shall be installed at the time of Certificate of Occupancy.

**SEC. 152.1300.11 Landscape Installation Requirements**

(A) Location.

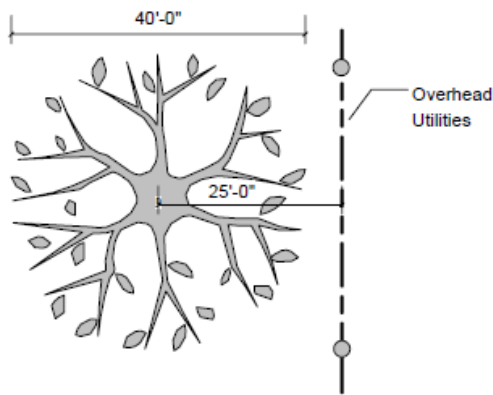
- (1) Drainage. Trees shall not be placed where they interfere with site drainage.

- (2) Overhead utilities. Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead power lines. In such locations, small ornamental trees are encouraged. Every effort shall be made to avoid placing trees directly under overhead utilities.
- (a) Shade / Large Trees. Tree species with a mature height greater than 30' shall be planted a minimum distance from overhead utilities that is half the mature width of the subject tree species plus five feet.

*Example:* Pin Oak has a mature width of 40 ft:

$$(40 \text{ ft} \div 2) + 5 \text{ ft} = 25 \text{ ft.}$$

Pin Oak should be planted a minimum of 25 ft from overhead utilities.



- (b) Suitable Trees Under Overhead Utilities. In cases where it is not possible to meet the landscape code without planting trees under overhead utilities or meeting the spacing requirements in Section A.2(a) Shade/ Large Trees above, the following tree species shall be used:

<b>(b) Suitable Trees Under Overhead Utilities</b>			
<b>Common Name</b>	<b>Mature Height (in feet)</b>	<b>Mature Width (in feet)</b>	<b>Growth Rate</b>
American Hornbeam, Ironwood	25	25	Slow
Amur Maple/Tatarian Maple	15	18	Medium / Fast
Chinese Fringetree	25	25	Medium / Fast
Chinese Pistache	30	30	Medium
Crabapple	12-25	15-25	Medium
Common Winterberry / Possumhaw	12	12	Medium
Crapemyrtle	15-30	8-18	Fast
Dwarf Southern Catalpa	18	22	Medium
Eastern Flowering Dogwood	20	20	Slow
Goldenraintree	30	35	Medium / Fast
Kousa Dogwood	15-24	15-20	Slow / Medium
Kwanzan Cherry Tree	15-25	25	Medium
Persian Parrotia	30	25	Medium
Prairiefire Crabapple Tree	20	20	Medium
Redbud Tree	25-30	15-25	Medium
Saucer Magnolia	20-30	25	Medium
Shantung Maple	15-30	25	Slow / Medium
Southern Magnolia	20	10	Medium
Star Magnolia	15	15	Slow / Medium
Sweetbay Magnolia	25	15	Medium
Thornless Cockspur Hawthorn	20	28	Medium
Thornless Osage – orange	25	30	Fast
Trident Maple	30	25	Medium
White Fringetree / Grancy Graybeard	20	20	Medium
Yoshino Cherry	25	30	Medium / Fast

(c) Substitution of Shade/Large Trees. Where shade/large trees are required by this article and placement under or near overhead utilities is necessary to meet the landscaping requirements, trees from the list in Section A.2(b) Suitable Trees Under Overhead Utilities may be used to substitute for a required shade/large tree at a ratio of 2 substituted trees for 1 required shade/large tree.

Example: 100 ft of linear street frontage

*Requirement:*

1 shade tree per 25 linear ft = 4 shade trees required

*Substitution:*

(2 utility trees for each shade tree):

2 x 4 = 8 trees from list in Section A.2(b) above.

- (3) Underground utilities. Landscaping shall be installed at locations that avoid placement directly above water lines. Where possible, tree plantings shall be located a minimum of 5 feet from all underground utilities.
- (4) Fire hydrants. Landscaping shall not be placed within three (3) feet of a fire hydrant.
- (5) Right of Way. Trees may be planted in the public right-of-way when the street is classified as an arterial on the Master Street Plan and the necessary right-of- way is dedicated.

(B) Minimum size. Immediately upon planting, trees shall meet the minimum requirements:

Minimum Tree Size	
Type	Minimum Size
Ornamental trees	1.5" caliper
Evergreen trees	6' in height
Shade	2.5" caliper
Shrubs	18" in height

All plant material shall meet the requirements established by the American Association of Nurserymen publication "American Standard for Nursery Stock" (ANSI Z60.1 latest edition.)

(C) Species Mix. When more than ten (10) trees are to be planted to meet the requirements of this ordinance, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is listed in the table below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.

Required Species Mix	
Required Number of Trees	Minimum Number of Species
11-20	2
21-30	3
31-40	4
41+	5

**SEC. 152.1300.12 Recommended Trees and Shrubs**

(A) Criteria. The following lists indicate plantings that meet the landscaping requirements of this article. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria:

- (1) General suitability for the climate and soil conditions for this area.
- (2) Unconstrained maintenance.
- (3) Tolerance of city conditions.
- (4) Readily available from area nurseries.

(B) Plant selection. When selecting new plantings for a particular site, a developer should first consider the type of plants that are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

<b>Recommended Shrubs</b>	
<b>EVERGREEN</b>	
Creeping Juniper	Japanese Holly
Shore Juniper	Pfitzer Juniper
Foster Holly	Helleri Holly
Youpon Holly	Inkberry Holly
Abelia	Euonymus
Nandina Barberry	Viburnum Wintergreen Azalea
Mugo Pine	
<b>DECIDUOUS</b>	
Japanese Barberry	Flowering Quince
Viburnum	Spirea
Cotoneaster	Forsythia
Azalea	



<b>Recommended Trees</b>		
<b>Common Name</b>	<b>Mature Height (in feet)</b>	<b>Growth Rate</b>
<b>SHADE</b>		
Bald Cypress	50-70	Medium
Chinese Elm	30-40	Medium
Ginkgo	80-100	Slow
Green Ash	50-60	Fast
Hackberry	40-60	Medium/Fast
Japanese Zelcova	40-50	Medium/Fast
Pin Oak	60-75	Fast
Red Maple	40-60	Medium/Fast
Red Oak	60-75	Fast
Sugar Maple	60-75	Slow/ Medium
Thornless Honey Locust	60-150	Medium
Tulip Poplar	60-150	Medium
White Ash	50-80	Medium
<b>EVERGREEN</b>		
Austiran Pine	40-60	Medium/Fast
American Holly	40-50	Slow/ Medium
Loblolly Pine	60-90	Fast
Japanese Black Pine	50-70	Slow
Norway Spruce	40-60	Medium
<b>ORNAMENTAL</b>		
Armur Maple	15-20	Medium
Chinese Pistache	25-35	Medium
Dogwood	20-25	Medium
Eastern Redbud	20-30	Medium
Golden Raintree	30-40	Medium/Fast
Japanese Red Maple	15-20	Slow/ Medium
Purpleleaf Plum	15-30	Fast
River Birch	40-70	Medium/Fast
Saucer Magnolia	20-30	Medium
Serviceberry	15-20	Medium
Trident Maple	25-35	Medium
Washington Hawthorn	25-30	Medium
Yoshino Cherry	20-40	Fast

**SEC. 152.1300.13 Tree Preservation Credits**

- (A) Healthy trees. No tree preservation credits will be allowed for any dead tree, any tree in poor health or any tree subjected to grade alterations.
- (B) Protection during construction. Trees for which credit is given shall be protected during construction from:

- (1) Mechanical injuries to root, trunk and branches;
- (2) Injuries by chemical poisoning;
- (3) Injuries by excavation; and
- (4) Injuries by paving.

(C) Credit options. If an applicant is preserving trees, he may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below and as approved by the Planning Commission.

- (1) Reduction of parking requirements. To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced as described below

<b>Parking Space Reduction Credits</b>	
<b>Total Diameter of all Preserved Trees</b>	<b>Number of Parking Spaces Credited</b>
4 – 7.9 inches	1 parking space
8 – 22.9 inches	2 parking spaces
23 – 29.9 inches	3 parking spaces
30+ inches	4 parking spaces

- (2) Reduction of required trees. Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted at the following rates:

<b>Tree Reduction Credits</b>	
<b>Diameter of Preserved Tree</b>	<b>Number of Trees Credited</b>
4 – 7.9 inches	1 shade tree
8 – 22.9 inches	2 shade trees
23 – 29.9 inches	3 shade trees
30+ inches	4 shade trees

**SEC. 152.1300.14 Enforcement and Maintenance**

(A) Final Occupancy Permit. The Building Official or his or her designee has the authority to enforce the requirements of this chapter. Final occupancy permits and/or final plats will be held for those who fail to complete landscaping requirements. Any landscaping in excess of \$2500.00 (materials and labor) shall comply with Sec. 1700.3 Guarantee of Completion and Installation. A contract with costs for materials and labor from a recognized landscaping company must be approved by the Building Official prior to the issuance of a certificate of occupancy.

(B) Maintenance. Once approved, the applicant is required to guarantee the plants for 36 months or the owner must replace them. The property owner shall maintain all trees and vegetation.

**SEC. 152.1300.15 Alternative Methods of Compliance**

An application for alternative landscaping schemes is justified only when one or more of the following conditions apply:

(A) Space limitations. The site involves space limitations or unusually shaped parcels.

- (B) Site conditions. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
- (C) Change of use. Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
- (D) Safety. Safety considerations require a change.

**SEC. 152.1300.16 Screening**

- (A) Standards. Every development shall provide sufficient screening that meets these standards:
  - (1) Adjacent properties. Neighboring properties are shielded from any adverse external effects of that development.
  - (2) Developing property. The development is shielded from the negative impacts of adjacent uses such as major street or railroads.
  - (3) Dumpsters. Trash dumpsters are enclosed with opaque screening materials on all sides.
- (B) Requirements. Screening required shall be determined by the Table of Screening Requirements.

<b>Table of Screening Requirements</b> (Letters indicate screen type as described in Subsection C)					
	<b>SF</b>	<b>Duplex/Townhouse</b>	<b>MF</b>	<b>Commercial</b>	<b>Industrial</b>
<b>SF</b>	None	B	A	A	A
<b>Duplex/Townhouse</b>	C	None	C	A	A
<b>MF</b>	A	C	None	B	A
<b>Commercial</b>	A	A	B	None	C
<b>Industrial</b>	A	A	A	C	None

- (C) Description of screens. The following three types of screens are hereby established and are used as the basis for the Table of Screening Requirements in Sec. 152.1300.14 B Requirements.
  - (1) Type A: Opaque Screen. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation.
    - (a) *Minimum height.* The screen shall be opaque from the ground to a height of at least six (6) feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet.
    - (b) *Materials.* The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
    - (c) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen shall be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The portion of intermittent visual obstructions may contain deciduous plants.

- (2) Type B: Semi-Opaque Screen. The semi opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.
  - (c) *Minimum height.* The screen shall be opaque from the ground to a height of three (3) feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet.
  - (d) *Materials.* The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
  - (e) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The zone of intermittent visual obstruction may contain deciduous plants.
- (3) 3. Type C: Broken Screen. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces.
  - (a) *Height.* The broken screen shall be composed of intermittent visual obstruction from the ground to a height of at least 20 feet.
  - (b) *Materials.* The broken screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
  - (c) *Vegetative screens.* The screen may contain deciduous plants.

**Sec. 152.1300.17 Fence and Wall Requirements**

- (A) Applicability. The requirements of this section shall apply to the following conditions in all zoning districts, except as exempted in B. Exemptions, below:
  - (1) 1. New Construction. Construction of a new fence or wall;
  - (2) 2. Extension. Extension of an existing fence or wall;
  - (3) 3. Replacement.
    - (a) Replacement of an existing fence or wall that is a different size, at a different location or of a different material (*e.g. a chain link fence being replaced by a wood privacy fence*); or
    - (b) Replacement of more than 50 percent of the linear length of an existing fence.
- (B) Exemptions. This section shall not apply to:
  - (1) 1. Zoning Districts. The A-1, Agricultural and R-E, Residential Estate zoning districts, except requirements of placement of razor wire, barbed wire, or electric fences near sidewalks and rights-of-way identified in Subsection E.4 Fence types.
  - (2) 2. Replacement. Replacement of less than 50% of the linear length of an existing fence, except that the portion being replaced shall not:
    - (a) impede visibility at the sight triangle,
    - (b) impede a natural drainage way;
    - (c) be located in certain utility easements that require gated access; or,
    - (d) encroach neighboring property lines.

(C) Permit Required. A fence permit shall be obtained prior to beginning construction and replacement of all applicable fences and walls, except those shown on an approved preliminary plat or large scale development.\

(1) Application. To obtain a fence permit, a completed application form and a plot plan (site plan) must be submitted to the Building Inspection Office. The plot plan shall show:

- (a) Location of all property lines;
- (b) Location of all existing structures;
- (c) Location of existing or proposed pools or spas;
- (d) Location of existing fencing on or adjacent to the property that is to remain in place;
- (e) Portions of existing fence that will be replaced;
- (f) Location of new fencing; and,
- (g) A note indicating the height of the proposed fence and the type of fence construction (i.e. wood privacy, wrought iron, brick, etc.)

(2) Review and Approval. Once all the required information is submitted, it will be reviewed by Planning for compliance. If the application is approved, the applicant shall pay the permit fee and the fence permit will be issued.

(3) Compliance. All fences or walls must be installed in compliance with the fence regulations and with the information shown on the approved plot plan and fence permit application form.

(4) Inspection Required. The applicant shall contact Building Inspections to request a final inspection upon completion of the fence. If the building inspector determines that the fence is constructed in accordance with the ordinance requirements and the approved fence permit, a Certificate of Compliance will be issued. If the fence does not pass the inspection, the building inspector shall prepare an inspection report detailing the deficiencies.

(D) Fence Location

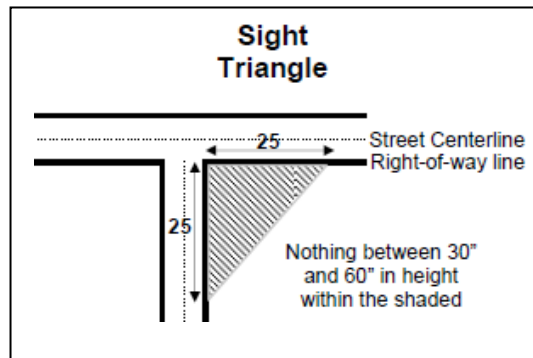
(1) Private Property. All fences and walls shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences and walls shall not encroach neighboring property lines.

(2) Front Yard. A fence over 36 inches in height shall not be located in the front yard or be positioned any closer to the front property line than the front surface of the building for a typical residential lot. Decorative fencing not exceeding 36" is allowed in front yards.

(3) Rear and Side Yards. A fence or wall may be located in the rear or side yard, but shall be in compliance with other regulations of this section.

(4) Adjacent to Right-of-Way. Fences and walls adjacent to a public right-of-way shall be placed no closer than five (5) feet to the right-of-way.

(5) Sight Triangle. Fences or walls constructed near street intersections shall stay clear of the “sight distance triangle”, shown below, in order to provide a reasonable degree of traffic visibility.



(6) Easements.

(a) *Utility Easements.* Walls used as fences and footings for retaining walls are prohibited in a utility easement. Construction of all other fences in

utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement(s) shall have a gate installed to permit access to the easement.

(b) *Drainage Easements.* Fences or walls shall not impede the normal flow of storm water and shall not cross an open drainage channel. Fences or walls proposed in drainage easements shall be approved on a case by case basis.

(c) *Access Easement.* Fences or walls shall not be constructed over a public access easement. Fences or walls proposed over private emergency access easements must be approved by the Fire Department to ensure Right-of-way line

(E) Design Standards. The following design standards shall apply to any new or replacements of any fence or wall where the length of the replacement exceeds 50 percent of the length of the existing fence.

(1) Height. Maximum height shall be eight feet (8') above average grade.

(2) Finished Surface. Finished surface shall face outward from the property when visible from a public right-of-way. Posts and support beams shall be inside the finished surface or designed to be an integral part of the finished surface.

(3) Gates. All fence segments abutting a thoroughfare, except for corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. An exception may be granted if the City receives a letter from the Home Owners Association stating that this area is maintained by the association and not by individual homeowners.

(4) Fence types.

(a) Razor wire. Razor wire shall be prohibited. *Exception.* Razor wire shall be permitted in A-1, Agricultural and R-E, Residential Estate districts and shall not be placed within five (5) feet of a public sidewalk or within four (4) feet of a street right-of-way where a public sidewalk does not exist.

(b) Barbed wire. Barbed wire shall be prohibited in residential zoned areas except RE Residential estate Districts. Barbed wire shall be permitted in commercial and agricultural zones and shall not be placed within five (5) feet of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist

(c) Electric fences. Electric fences shall be prohibited. *Exception.* Electric fences shall be permitted in A-1, Agricultural and RE residential Estate Districts and shall not be placed within five (5) feet of a public sidewalk or within four (4) feet

of a street right-of-way where a public sidewalk does not exist. Underground electric pet fences shall be permitted.

(F) Pools and Spas. Outdoor pools, spas and hot tubs shall be protected by an enclosure designed to restrict access by children. If a fence is intended to serve as the required enclosure, it shall meet the following requirements in addition to those that apply to a fence or wall.

(1) Height. The minimum height of the fence enclosure shall be at least 48 inches. The maximum clearance between the bottom of the fence and the ground shall be 2 inches.

(2) Gates. Gates in the enclosing fence shall swing away from the pool/spa area and be designed to be self-closing and self-latching. If the latch or latch-release hardware is on the outside of the fence, it shall be at least 54 inches above the ground. If the latch hardware is on the inside of the fence, it must be at least 3 inches below the top of the fence and there shall not be any openings more than ½ inches in width within 18 inches of the latch. Gates more than 5 feet in width and designed for equipment access to the fence area are not required to be self-closing or self-latching provided they are locked at all times except when needed for equipment access.

(3) Design. The fence shall be designed so that there are no openings large enough to allow the passage of a 4 inch diameter sphere and so that no “ladder effect” is created on the outside. If a chain link fence material is used, the maximum size of the openings (i.e., the distance between parallel wires) shall not exceed 1-1/4 inches.

(G) Detention/Retention Ponds. If a fence or wall is installed around a detention or retention pond with permanent water two feet (2') deep or more, the fence or wall shall meet the requirements of F. Pools and spas, above.

#### **SEC. 152.1300.18 Landscaping for Wireless Communication Facilities (WFF)**

The following requirements shall govern the landscaping surrounding towers for which a Special Use permit is required. The landscaping requirements set forth in this section are required for telecommunication tower and antenna sites only, all other development within the City of Tontitown must comply with the requirements set forth in Landscaping Ordinance.

(A) Communication facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the communication facility from adjacent properties.

(1) Along the street frontage a minimum buffer of ten (10) feet in width shall be provided, planted with a minimum of one (1) evergreen tree and four (4) shrubs per twenty-five (25) linear feet of street frontage.

(2) The remaining perimeter shall consist of a continuous landscaped area around the communication facility. This shall consist of at least two (2) courses of evergreen trees that are, at the time of initial planting, at least six (6) feet in height.

Existing mature tree growth and natural landforms on or surrounding the communication facility shall be preserved to the maximum extent possible. In some cases (such as for towers situated on large, wooded lots), natural growth around the property perimeter may be a sufficient buffer. In such cases, the requirements listed above in the preceding subsection hereof may be waived.

**ARTICLE 152.1400 FLOOD DAMAGE PREVENTION**

Section 152.1400.01. Statutory Authority.....

Section 152.1400.02. Findings of Fact.....

Section 152.1400.03. Statement of Purpose.....

Section 152.1400.04. Lands To Which This Ordinance Applies.....

Section 152.1400.05. Methods of Reducing Flood Losses.....

Section 152.1400.06. Flood Damage Prevention Code Adopted By Reference.....

Section 152.1400.07. Abrogation and Greater Restrictions.....

Section 152.1400.08. Interpretation.....

Section 152.1400.09. Warning and Disclaimer of Liability.....

Section 152.1400.10. Compliance.....

Section 152.1400.11. Penalty For Non-Compliance.....

Section 152.1400.12. Severability.....

Section 152.1400.13. Fees.....

Section 152.1400.14. Permits.....



**SECTION 152.1400.1 Statutory Authority**

The Legislature of the State of Arkansas has in Ark. Code Ann. § 14-268-101 et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the City Council of the City of Tontitown, Arkansas, does hereby ordain as follows:

**SECTION 152.1400.2 Findings of Fact**

- (A) The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of the City of Tontitown in the current scientific and engineering report entitled “The Flood Insurance Study (FIS) for Washington County, Arkansas,” which is the most recent approved revision of the Flood Insurance Rate Map (FIRM).
- (B) These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (C) These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately flood proofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

**SECTION 152.1400.3 Statement of Purpose**

The purpose of this ordinance is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- (A) Protect human life and health;
- (B) Protect natural floodplains against unwise development;
- (C) Eliminate adverse impacts of necessary floodplain development;
- (D) Minimize expenditure of public monies on flood control projects;
- (E) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (F) Minimize prolonged business interruptions due to flooding events;
- (G) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- (H) Minimize future flood blight areas to help maintain a stable tax base; and
- (I) Provide for notice to potential buyers when property is in a Special Flood Hazard Area.

**SECTION 152.1400.4 Lands to Which the Ordinance Applies**

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Tontitown, Arkansas.

**SECTION 152.1400.5 Methods of Reducing Flood Losses**

This ordinance uses the following methods to accomplish the stated purpose:

- (A) This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;

- (B) This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
- (C) This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- (D) This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- (E) This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

**SECTION 152.1400.6 Flood Damage Prevention Code Adopted By Reference**

There is hereby adopted by reference a “**Flood Damage Prevention Code for the City of Tontitown, Arkansas,**” dated August 28, 2007. The code shall be available for inspection and copying by any person during normal office hours.

**SECTION 152.1400.7 Abrogation and Greater Restrictions**

This ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies.

**SECTION 152.1400.8 Interpretation**

In the interpretation and application of this ordinance, all provisions must:

- (A) Be considered as minimum requirements;
- (B) Be liberally construed in favor of the governing body; and
- (C) Be deemed to neither limit nor repeal any other powers granted under State statutes.

**SECTION 152.1400.9 Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance.

**SECTION 152.1400.10 Compliance**

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations.

**SECTION 152.1400.11 Penalty for Noncompliance**

Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.

- (A) The Floodplain Administrator and his or her designee must enforce the provisions of this ordinance and is authorized to:
- (B) Issue a stop work order on non-compliant floodplain development projects;
- (C) Issue citations for non-compliance;
- (D) Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
- (E) Take any other lawful action necessary to prevent or remedy any instance of noncompliance with the provisions of this ordinance.
  - (1) It is a misdemeanor to violate or fail to comply with any provision of this ordinance.
  - (2) Any person found, in a court of competent jurisdiction, guilty of violating this ordinance is subject to fines of not more than \$500 per day for each violation; in addition the defendant is subject to payment of all associated court costs and costs involved in the case.

**SECTION 152.1400.12 Severability**

If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of this ordinance is invalid or unconstitutional, that finding in no way affects the validity of the remaining portions of this ordinance.

**SECTION 152.1400.13 Fees**

The applicant shall pay the fee listed on the permit application, as adopted from time to time by City Council.

**SECTION 152.1400.14 Permits**

- (A) Applicability. Any structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities must be approved via the current Floodplain Development Permit Application prior to any work within the Special Flood Hazard Area.
- (B) Exemptions. No exemptions may be granted without a written request to the city Floodplain Administrator and approval by the appropriate board.
- (C) Application.
  - (1) Application Form. Completed and signed application form.
  - (2) Fee. Payment of fee as indicated on the application.
- (D) Review and Approval. Any Floodplain Development permit may not be completely reviewed until all associative documents and detailed study information has been made available to the Floodplain Administrator. Upon completion of the review a determination will be made to approve or deny the permit.

**ARTICLE 152.1500 ADDRESSING**

Section 152.1500.01. Purpose.....

Section 152.1500.02. Street Address Map.....

Section 152.1500.03. Centerlines.....

Section 152.1500.04. Street Names.....

Section 152.1500.05. Address Numbers.....

Section 152.1500.06. Signs, Numbers and System Maintenance.....

**SEC. 152.1500.01 Purpose**

This article establishes a system for assigning street names and address numbers which will assist the public and private sector in locating individual streets, buildings and places in an easy and logical manner and for the protection of public health and safety of all persons living, working or visiting in the City of Tontitown.

**SEC. 152.1500.02 Street Address Map**

- (A) Official Map. The official Street Address Map is maintained on the city GIS system. The map shall identify all named street names and addresses.
- (B) Updating. The official Street Address Map shall be automatically updated by the GIS Department upon final plat approval of any plat, large scale development, or Planned Unit development.
- (C) The city has determined that a discrepancy exists regarding one of its streets. The city’s 1966 plot of city blocks illustrates a street known as “First Street” which runs parallel and east of North Barrington Road and intersects East Washington Avenue. This street will now be known as “Roso Street,” and this revision was approved by the Planning Commission, and recommended for City Council adoption, be and is hereby approve

**SEC. 152.1500.03 Centerlines**

The address grid centroid is the intersection of Henri De Tonti Street and Barrington Road. The address numbers increase proceeding North, South, East and West. The North and South address centerline is a line extending East and West from the grid centroid to the City Limits. The East and West address centerline is a line extending North and South from the grid centroid to the City Limits and the addressing boundary.

**SEC. 152.1500.04 Street Names**

- (A) Definition of Street. For the purpose of this article the word “street” shall mean all roadways, public and private, open for general public travel. Access drives to apartment and commercial complexes shall not be considered as private streets.
- (B) Street Names on Preliminary Plat. Street names shall be shown on the preliminary plat. The street names shown on the final plat shall be consistent with those shown on the preliminary plat.
- (C) Suffix.
  - (1) *East and West.* Streets running East and West shall be identified with the suffix “avenue”, or “boulevard” when applicable.
  - (2) *North and South.* Streets running North and South shall be identified with the suffix “road”, or “street” respectively.

Street Suffix	
Direction	Suffix
East/West	Avenue Boulevard
North/South	Road Street

- (D) State and Federal Highways. Streets which are also state and federal highways will be identified by their local street name followed by their state or federal designation in parenthesis on the official Street Address Map. For example, Henri De Tonti Boulevard (US 412).
- (E) Cul-de-sacs. Cul-de-sac streets which have only one entrance/exit shall not be called “avenue” or “road” but shall have a suffix name such as “cove”, “lane”, “place” or “terrace” to indicate their dead-end nature.
- (F) Loop Streets. Loop streets are circular or rectangular plan streets which begin at one point and end at another point along a common street and do not connect to any other streets. The street name suffixes on these streets must not be “road” or “avenue” but shall be “loop”, “circle”, “court” or other name indicating a closed street layout.
- (G) Duplication. Street names shall not be duplicated and names with a similar pronunciation such as Main/Maine shall be avoided.
- (H) Name of Person. No street shall be named after a person’s first or last name, unless specifically directed to do so by proclamation from the City Council in order to honor an individual.

**SEC. 152.1500.05 Address Numbers**

- (A) Final Plats. All Final Plats shall be preaddressed. Large Scale Developments with more than one suite shall be addressed by the lot’s common address along with the individual suite number. (i.e. 620 Henri De Tonti Blvd., Suite A, Suite B etc.)
- (B) Odd and Even Numbers. Address numbers shall be even on the north and east sides of the street and odd on the south and west sides of the street. Address numbers for unplatted residential and all other nonresidential buildings shall be determined by calculation. The distance from the center of the driveway to the last corner or grid shall be measured to get a location number. The location number is then divided by 5.28 to get the address. If the block number is 1200 and the location number divided by 5.28 is 43, the address is 1243 or 1244 depending upon which side of the street the building is located. Address numbers shall be beginning by the number grid in which the property is located.
- (C) New Residential Subdivisions. In new residential subdivisions each standard sized lot shall be given a pre-assigned street number by the Planning Department upon final plat approval. All pre-addresses shall be reflected on the final plat at the time it is recorded. Address numbers will be assigned to large lots relative to their capacity to be divided into two or more minimum sized lots for the minimum width allowed by the zoning ordinance. Address numbers shall be assigned to lots in the appropriate odd or even numerical sequence relative to their location, such as 201, 203, 205, etc.
- (D) Diagonal Streets. Diagonal streets which run 45 degrees or less from a North/South line will be numbered by the North/South grid and those more than 45 degrees from the North/South line will be numbered by the East/West grid. Curving streets will be assigned numbers based upon the grid of their greatest length. For instance, if the beginning is more South than East of the end the North/South grid will be used.

<b>Numbering for Diagonal Streets</b>	
<b>From North / South Line</b>	<b>Grid to be used</b>
45° or less	North / South
More than 45°	East / West

- (E) Loop Streets and Cul-de-sacs. On loop streets and cul-de-sac streets address numbering shall begin at the entrance nearest the grid centerline. Address numbers shall increase or decrease relative to their initial movement from the grid centerline and continue to the opposite end as if the street were in a straight line. Block number change will be made every 528 feet with odd and even numbers remaining on the same side of the street as they began, or as applicable to intersecting streets.
- (F) Apartments.
- (1) On public streets. Apartment buildings on public streets shall be assigned individual addresses. Apartments clustered about a central parking area immediately facing a public street shall also be assigned separate street addresses.
  - (2) On private streets. Apartment buildings not located on public streets will be assigned a private street designator. These apartment buildings shall be assigned individual addresses. In these instances each building is lettered A, B, C and the like, but a central postal facility for all apartments must be located so it is readily accessible to a mail carrier for the public street serving the complex.
  - (3) Building Identification. Each apartment building must be identified on the exterior by block grid number. The numbers shall be in sequence increasing from the centerline. Apartment buildings shall have the block number as part of each apartment number 1702 Apt # 11. Apartments in lettered buildings shall have the building letter as part of each apartment number, such as B-210. When units are on multiple floors, ground floor numbers shall be in the 100 series (101, 102, 103 and the like), second floor in the 200 series (201, 202, 203 and the like). If a common hallway is used for several apartments, the external hallway entrance to each apartment shall contain a list of the apartments served. When addressing townhouses and other buildings containing units separately owned, each address shall be placed upon the principal external entryway to the unit.
  - (4) Individual Units. The official address for each apartment on a public street shall be the building address followed by the apartment number, such as “329 E. Central Avenue Apt # 11”, or “329 E. Central Avenue # 11.” Addresses for units in apartment buildings not on a public street shall include the block number, private street designator and apartment number. The official address for each apartment building not on a public street will be “1702 S.E. Moberly Manor Dr. Apt # 11 or 702 S.E. Moberly Manor Dr. # 11”. Mobile home parks on private streets shall be addressed in the same manner as apartment buildings located on private streets.
- (G) Suites. Suite numbers (odd or even) shall be determined by its parent building’s number and will increase in an odd or even manner according to the layout location from the centroid. In the event of a suite split, the newly created suite shall be assigned the next lowest available number. Example: A building with the odd number 201 shall start with suite 1, 3, 5, 7, etc. Buildings with an even number (202) shall have even suite numbers (2, 4, 6, etc.). If there was a split in the odd building 201 between suites 3 and 5 the newly created suite would be numbered suite 4.
- (H) Corner Lots. Structures on corner lots shall not be given dual addresses. The structure on a corner lot shall be addressed off of the street where the front entrance is located. If the structure appears to have more than one front entrance then the structure shall be addressed off of the street with the shortest frontage.
- (I) Townhouse. Each unit within a townhome development which is on an individual lot shall have a separate address number and not a unit number.

**SEC. 152.1500.06 Signs, Numbers and System Maintenance**

- (A) Public and private street signs shall be installed at the expense of the original developer and thereafter maintained by the city.
- (B) Private street signs shall be required. They shall conform to the public street sign standards, except shall have a blue background with white letters.
- (C) Only street name signs which are authorized by the City Council shall be installed within the Planning Area Boundary of the City of Tontitown. All street name signs, public or private, found not to conform with this subchapter shall be removed by the city. Nonconforming, damaged or deteriorated public street signs shall be replaced as soon as possible by the city.
- (D) Requests for private street signs on existing streets shall be submitted to the Building Official.
- (E) Replacement of address numbers is required within 15 days after written notice to the owner or occupant. New and replacement numbers must be placed so that they will be clearly visible from the street of primary access to the building.
- (F) Address numbers shall be a minimum of four inches high with dark green reflective block letters on a white background or reverse contrasts and shall be visible from the street. The numbers shall be placed as near as possible to the primary entrance of the building and preferably above the entrance doorway. If building is not visible from the street, address numbers should be placed at the street entry to the building. Appeals concerning numbers shall be made to the City Council.



**ROLL CALL**

SHALL THE ORDINANCE PASS:

	Yea	Nay
Alderman David Bolinger	___	___ (Ward 1, Position 1)
Alderman Henry Piazza	___	___ (Ward 1, Position 2)
Alderman Arthur Penzo	___	___ (Ward 2, Position 1)
Alderman Bobby Pinalto	___	___ (Ward 2, Position 2)
Alderman Julie Bowling	___	___ (Ward 3, Position 1)
Alderman Ken Robertson	___	___ (Ward 3, Position 2)
Mayor Joseph Edgmon	___	___
TOTALS:	___	___

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**ROLL CALL**

SHALL THE ORDINANCE BECOME EFFECTIVE IMMEDIATELY:

	Yea	Nay
Alderman David Bolinger	<u>✓</u>	___ (Ward 1, Position 1)
Alderman Henry Piazza	<u>✓</u>	___ (Ward 1, Position 2)
Alderman Arthur Penzo	<u>✓</u>	___ (Ward 2, Position 1)
Alderman Bobby Pinalto	<u>✓</u>	___ (Ward 2, Position 2)
Alderman Julie Bowling	<u>✓</u>	___ (Ward 3, Position 1)
Alderman Ken Robertson <i>Absent</i>	___	___ (Ward 3, Position 2)
Mayor Joseph Edgmon	___	___
TOTALS:	<u>5</u>	<u>0</u>