

ORDINANCE NO. 2010-12-366

AN ORDINANCE AMENDING THE CITY OF  
TONTITOWN'S CODE SECTION 153 et. seq. ZONING REGULATIONS

WHEREAS, after due notice as required by law, the Tontitown Planning Commission has heard all persons desiring to be heard regarding an amendment to the Tontitown Code Section 153 et. seq. Zoning 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 Zoning Regulations Ordinance for the purposes of promoting the health, safety and general welfare of the citizens of Tontitown, Arkansas.

WHEREAS, after thorough consideration of comments and views expressed by all interested persons, said Commission unanimously approved an amendment to said Code Section for consideration of the City Council.

WHEREAS, on November 23, 2010, a public hearing was held for public comment specifically for the Code Section 153 et. seq. Zoning Regulations and the Planning Commission reviewed and approved the Code Section on which has been forwarded to the City Council for consideration. A copy of the same is attached hereto and incorporated herein by reference.

WHEREAS, the City Council has reviewed Code Section 153 et. seq. Zoning Regulations and recommends the codification of this section.

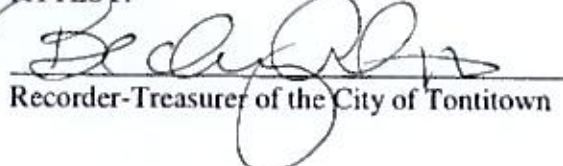
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS, that there is hereby established an amended Code Section 153 et. seq. Zoning Regulations, for the City of Tontitown, a copy of which is attached hereto and made part of this ordinance by reference. The attached Code Section 153 et. seq. supersedes any 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 Any prior regulations or code sections in conflict with the attached Code Section herein adopted are hereby repealed.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 153 et. seq. Zoning Regulations to be all encompassing and to take precedent over the previous Code Section 153 regarding zoning regulations and all subsequent amendments. The attached Code Section 153 et. seq. Zoning Regulations is incorporated herein.

PASSES AND APPROVED THIS 7<sup>th</sup> DAY OF December, 2010.

  
Mayor of the City of Tontitown

ATTEST:

  
Recorder-Treasurer of the City of Tontitown

## ROLL CALL

SHALL THE ORDINANCE PASS:

	Yea	Nay
Alderman David Bolinger	<input checked="" type="checkbox"/>	___ (Ward 1, Position 1)
Alderman Henry Piazza	<input checked="" type="checkbox"/>	___ (Ward 1, Position 2)
Alderman Arthur Penzo	<input checked="" type="checkbox"/>	___ (Ward 2, Position 1)
Alderman Bobby Pianalto	<input checked="" type="checkbox"/>	___ (Ward 2, Position 2)
Alderman Julie Bowling	<input checked="" type="checkbox"/>	___ (Ward 3, Position 1)
Alderman Ken Robertson	<input checked="" type="checkbox"/>	___ (Ward 3, Position 2)
Mayor Joseph Edgmon	___	___
TOTALS:	<u>6</u>	<u>0</u>

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## ROLL CALL

SHALL THE ORDINANCE BECOME EFFECTIVE IMMEDIATELY:

	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 Pianalto	___	___ (Ward 2, Position 2)
Alderman Julie Bowling	___	___ (Ward 3, Position 1)
Alderman Ken Robertson	___	___ (Ward 3, Position 2)
Mayor Joseph Edgmon	___	___
TOTALS:	___	___

# City of Tontitown Zoning Code



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## **ARTICLE 153.101 PURPOSE**

### **SEC. 153.101.1 TITLE**

The title of this ordinance shall be known as the “Zoning Ordinance of the City of Tontitown, Arkansas.” The ordinance shall consist of the text written herein as well as the map described in Section 153.401.1, Zoning District Boundary Map.

### **SEC. 153.101.2 AUTHORITY**

These regulations are adopted under the authority conferred on the City of Tontitown by the General Assembly of the State of Arkansas by A.C.A. § 14-56-402 through § 14-56-425.

All membership in various boards and commissions acting prior to the effective date of this ordinance shall remain in office and serve for the duration of the term, unless otherwise relieved of duty.

### **SEC. 153.101.3 PURPOSE**

The general purpose of this ordinance is to carry out and protect various elements of the General Plan of the City of Tontitown, Arkansas. In doing so, the ordinance promotes in accordance with present and future needs, the safety, health, and general welfare of the citizens. Specifically, this ordinance supports the provisions of the General Plan which provides, among other things, for:

- A. Efficiency and economy in the process of development;
- B. The appropriate and best use of land;
- C. Convenience of traffic and circulation of people and goods;
- D. Safety from fire and other dangers;
- E. Adequate light and air in the use and occupancy of buildings;
- F. Healthful and convenient distribution of population;
- G. Good civic design and arrangement;
- H. Adequate public utilities and facilities; and
- I. Wise and efficient expenditure of funds.

### **SEC. 153.101.4 JURISDICTION**

The provisions of the ordinance shall apply to all land and structures within the corporate limits of Tontitown, Arkansas, as they now or may hereafter exist. This ordinance shall also apply to any land annexed into the city limits for whatever reason after the adoption of this ordinance.

### **SEC. 153.101.5 NATURE AND APPLICATION**

For the purposes herein before stated, the City has been divided into zoning districts in which the regulations contained herein will govern lot coverage; the height, area, bulk, location and size of buildings; open space and the uses of land, buildings and structures. In interpreting and applying the provisions of this Zoning Ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.

After the adoption of this ordinance, the use of any land within the ordinance's jurisdiction shall conform completely to its provisions, except as may be hereinafter set forth.

#### **SEC. 153.201.1 INTERPRETATIONS**

When dealing with this Ordinance, the following rules of interpretation shall be applied, except when the context clearly requires otherwise.

- A. Words used in the present tense shall include the future tenses. Words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise.
- B. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- C. The particular shall control the general.
- D. The text of this ordinance shall control, in cases where the text differs in meaning or implication from any chart, graph, illustration, or table.
- E. The words "building" and "structure" are synonymous and include any part thereof.
- F. The word "Person" shall include individuals, firms, corporations, associations and any other similar entities.
- G. The words "parcel" and "tract" may be used interchangeably.
- H. The word "City" means the areas of jurisdiction of the City of Tontitown, Arkansas.
- I. All public officials, bodies and agencies to which reference is made are those of the City of Tontitown, Arkansas.
- J. All yards required by this ordinance shall be open and unobstructed by structures from the lowest level of the lot to the sky, except as specifically regulated herein.
- K. The word "permitted" or words "permitted by right" means permitted without meeting the requirements for a conditional use permit or site plan.

#### **SEC. 153.201.2 DEFINITIONS OF TERMS AND USES**

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Where any words are not defined, the standard dictionary definition shall apply. In addition some definitions listed restrict and define the meaning and intent of permitted uses set forth in this ordinance.

##### **A**

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

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

**Accessory Building:** See "Building, Accessory."

**Accessory Use:** A use that (1) is subordinate in area, extent and purpose to the principal use, (2) contributes to the comfort, convenience or necessity of the principal use, and (3) is located on the same lot and in the same zoning district as the principal use.

**Accessory Dwelling:** See "Dwelling, Accessory."

**Act:** The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include any re-amendments thereto.

**Addition:** Any construction which increases the size of the building such as a porch, attached garage or carport, or a new room or wing.

**Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

**Adult Bookstore or Adult Video Store:** A commercial establishment whose principal business purpose (*more than 5% of sexually oriented material in inventory*) is to offer for sale or rental for any form of consideration any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”

**Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear in a state of nudity;
2. live performances which are characterized by the exposing of “specified sexual activities” or “specified anatomical areas; or;
3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of “specified sexual activities” or “specified anatomical areas.”

**Adult Day Care:** An institution maintained and conducted, certified by the State, under public or private auspices which cares for more than four (4) adults who require such care because of age, affliction or limited capacity and who are apart from their own family or relatives during a part of the day.

**Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown, excluding those which are rated by the Motion Picture Association of America, which emphasize “specified sexual activities.”

**Adult Theaters:** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appearing in a state of nudity of live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas.”

**Agricultural Products Processing:** A facility which involves the operation(s) of processing, preparing or packaging agricultural products which are not grown on the site.

**Agriculture:** The use of land for farming, dairying, pasturage, apiculture (bees), aquaculture (fish, mussels), horticulture, floriculture, viticulture (grapes), or animal and poultry husbandry; this includes the necessary accessory uses for packing, treating, or storing the produce from these activities.

**Agriculture-related Business:** An establishment engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production, including the bulk storage of hay, feed, seed, fertilizers and related agrichemicals.

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

**Alterations:** Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders the consummated act of which may be referred to herein as “altered” or “reconstructed.”

**Alternative Tower Structure:** Manmade trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers and are built for the express purpose of serving as a tower or for locating antennas.

**Animal, Domestic or Household:** Any animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, rabbits, hamsters, mice, and turtles.

**Animal, Farm:** Any animal that customarily is raised in an agricultural, rather than urban, environment, for profit on farms and has the potential of causing a nuisance if not properly maintained, including, but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules. This definition does not include “hobby chicken” which is separately defined.

**Animal, Exotic:** Animals that are not usually found running at large within the natural areas of the State of Arkansas; that do not meet the definition of household/domestic animals or farm animals; that are not usually considered as a food supply or animal of burden in the United States, and which close relative or parentage are usually imported from another country.

**Animal, Game:** Animals which are normally wild by nature, provide citizens with a portion of food for consumption, and are usually hunted under a permit issued by the State of Arkansas.

**Animal, Wild by Nature:** Animals which normally fall within the category of scavenger or predator; may instill fear and apprehension in persons of normal sensitivity, when encountered; require extraordinary precautions to prevent escape, and will not usually voluntarily return to the domicile after escape.

**Animal Clinic:** An establishment for the diagnosis and treatment of pets and other animals including but not limited to dogs, cats, birds and horses. All boarding of animals takes place in an enclosed structure and is incidental to clinic or hospital use.

**Animal Shelter or Kennel:** A public or private facility including outside runs for enclosure of animals, especially stray or unlicensed pets, or for pets being boarded for short periods of time, where more than five (5) or more animals, more than four (4) months of age are kept.

**Antenna:** Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips but not including satellite earth stations.

**Antenna Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest point of the structure. If the support is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Apartment:** See “Dwelling, Multifamily.”

**Apiary:** means the assembly of one or more colonies of bees at a single location.

**Apiculture:** Beekeeping, which includes one or more hives or boxes occupied by bees (hives or boxes include colonies), but does not include honey houses, extraction house, warehouses, or appliances.

**Applicant:** Any person, firm, or corporation applying for permits or other approvals required by this chapter.

**Aquarium:** An establishment where aquatic collections of living organisms are kept and exhibited. Area: The amount of land surface in a lot or parcel of land.

**Area Requirement:** The yard, lot area, width of lot, height of structure, and parking requirements as set forth for a specific zone in this ordinance.

**Arena/Auditorium:** An enclosed facility used for large public gatherings for viewing sports events, musical programs, public speeches or ceremonies.

**Artisan shop:** A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, that are small run or one-of-a-kind items, where the store includes an area for the crafting of the items being sold.

**Artisan/ Craft Product Manufacturing:** Establishments manufacturing and/or assembling small products primarily by hand but in large runs, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products. This definition does not include "artisan shop" which is separately defined.

**ATM:** An automatic device that performs banking or financial functions at a location remote from the controlling financing institution.

**Auction House:** A building area or areas within a building used for the public sale of goods, ware, merchandise, or equipment to the highest bidder. This definition excludes an "auto auction" or "livestock market" which is separately defined.

**Authorized Agent:** A person or persons authorized by the landowner to act in his behalf.

**Auto or Equipment Auction:** A facility for the sale of automobiles and large construction or farm equipment to the highest bidder.

**Automobile Repair:** Any building, structure or improvements to land used for the repair and maintenance of automobiles, motorcycles, trucks, buses or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire services and sales.

**Auto and Vehicle Sales and Rental:** A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers, motorcycles, and scooters with internal combustion engines. (Bicycle sales are included under "General Retail"). Vehicles for sale may be displayed outdoors or indoors, as authorized by the required Use Permit. May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"); mobile home, recreational vehicle, or watercraft sales (see "Mobile Home, RV and Boat Sales"); tire recapping establishments (see "Vehicle Services"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Service Stations," which are separately defined.

## **B**

**Banner:** A temporary sign constructed of a lightweight material, such as cloth, canvas, fabric, or flexible plastic, either enclosed in a frame or mounted to allow movement caused by the atmosphere.

**Bakery:** An establishment primarily engaged in the retail sale of baked products for consumption off-site. The products may be prepared either on or off site.

**Bar, Lounge or Tavern:** An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, and where food service is secondary to the sale of beer, wine or other liquors. Includes microbreweries where patrons are served beer produced on the premises for on-site consumption.

**Basement:** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining

ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

**Beekeeper:** Beekeeper means a person who owns or has charge of one or more colonies of bees.

**Beekeeping equipment:** means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

**Billboard:** See “Off-premise Sign, Offsite Sign, Billboard.”

**Board:** The word “Board” shall mean the Board of Zoning Adjustment.

**Botanical Garden:** A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

**Broadcasting Studio:** An establishment for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures.

**Buffer:** A strip of land established to protect one type of land use from another with which it is incompatible. A buffer strip is landscaped and kept in open space. The term buffer zone may be used more broadly to describe any zone that separates two unlike zones such as a multi-family zone between a single-family zone and a commercial zone.

**Buildable Area:** The space remaining for construction on a lot after the minimum area requirements (yards, setbacks, coverage) have been met.

**Building:** Any structure intended for shelter, housing or enclosure of persons, animals, goods or equipment that includes walls and a roof. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure.

**Building, Accessory:** A detached building or structure the use of which is subordinate to and customarily found in connection with that of the main building or structure on the same lot, including a private garage, workshop or shed. If the building otherwise qualified as an accessory building is attached to the main building by a common wall or roof, such building shall be considered a part of the main building.

**Building, Accessory - Nonresidential:** An accessory building, the use of which is of a non residential nature.

**Building, Attached:** A building which shares a continuous roof with another adjacent building.

**Building, Detached:** A building having no roof in common with another building.

**Building Façade:** The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building.

**Building Height:** The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

**Building Line:** A line usually fixed parallel to a lot line, beyond which a building cannot extend under the terms of the Zoning Ordinance. It is equivalent to the setback or yard line.

**Building and Landscape Material Sales:** A retail establishment selling hardware, lumber and other large building materials, plant materials, and other landscaping materials. Including, but not limited to, paint, wallpaper, glass, fixtures. Includes all these stores selling to the general public, even if contractor sales account for a major proportion of total sales.

**Building, Principal:** A building or structure in which is conducted the principal use of the lot on which it is located. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which same is located.

**Bulk Storage of Highly Flammable Materials:** A facility for the storage of chemicals, gases or liquids which are subject or could be caused to ignite or explode.

**Bus or Truck Storage or Garage:** A facility in which currently licensed buses or trucks are stored or repaired.

## C

**Canopy Roof:** A permanent, decorative porch or walkway cover other than an awning which is attached to a building or supported by columns extending to the ground.

**Carport:** Means a shelter for one or more vehicles which is not fully enclosed by walls and one or more doors.

**Car Wash:** A facility for washing or steam cleaning passenger automobiles (including a self-service operation), operating either as a separate facility or when installed and operated in conjunction with another use, and which installation includes equipment customarily associated with a car wash and is installed solely for the purpose of washing and cleaning automobiles.

**Cemetery or Mausoleum:** A place or ground designated for burial of the dead. A mausoleum is a building with places for entombment of the dead.

**Certificate of Occupancy:** Official certification that a premise conforms to provisions of the Zoning Ordinance and Building Code and may be used or occupied. Such a certificate may be granted for new construction or for alteration or additions to existing structures.

**Chicken, Hobby:** Fowl that are being raised on non-agricultural lots as a hobby instead of as a farming operation. Hobby chickens are used for the production of eggs, garden fertilizer, and meat production or as pets for non-commercial purposes.

**Child Care, Commercial:** Any child care facility is considered commercial in nature when the facility cares for eight (8) or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation, provided, however, this definition shall not include public or private schools organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, or to children related by blood or marriage within the third degree to the custodial persons. These uses include but are not limited to: commercial day care center, nursery school, pre-school, kindergarten.

**Child Care, Residential (4):** A single family dwelling that regularly provides care, protection, and supervision of no more than four (4) children, including children under the age of ten that permanently reside in the home, in the permanent residence of the operator's home, for periods of less than twenty-four (24) hours per day, while parents or guardians are away.

**Child Care, Residential (5-10):** A single family dwelling that regularly provides care, protection, and supervision of between five (5) and ten (10) children, including children under the age of ten that permanently reside in the home, in the permanent residence of the operator's home, for periods of less than twenty-four (24) hours per day, while parents or guardians are away.

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

**Club:** An organization of persons for special purposes for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

**Cold Storage Plant:** An establishment where foods or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or other commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

**Co-Location:** Locating wireless communications equipment for more than one provider at a single communications facility.

**Colony or Hive:** An aggregate of bees consisting principally of workers, but having, when perfect, one queen and at time many drones, including brood, combs, honey and the receptacle inhabited by the bees.

**Commercial Recreation or Entertainment Facility, Indoor:** Establishments providing indoor recreational activities for a fee or admission charge, including:

- bowling alley
- coin-operated amusement arcade
- night club
- electronic game arcade (video games, pinball)
- ice skating and roller skating
- pool and billiard room as primary use
- movie theater
- live theater

This use does not include adult oriented businesses, which are separately defined. Eight (8) or more electronic games or coin-operated amusements in any establishment, or premises where fifty percent (50%) or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; seven (7) or fewer machines are not considered a land use separate from the primary use of the site.

**Commercial Recreation or Entertainment Facility, Outdoor:** A facility for various outdoor recreational activities for a fee or admission charge. Examples include:

- amusement and theme park
- go-cart track
- golf driving range
- miniature golf course
- water slide
- drive-in movie theater
- live outdoor theater

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc. Does not include golf courses, which are separately defined.

**Commission:** The Tontitown Planning Commission.

**Common Signage Plan:** A plan for all signs associated with a development project. If the project consists of several buildings or businesses which are related in a single development, the signage plan shall include all signs within the development including out parcels. The signage plan elements shall include: colors, dominant lettering style, location, materials, and size.

**Common Usable Open Space:** That portion of land or an area of water or a combination of land and water within the site designated for a planned unit development and designed and intended for use and enjoyment of residents and owners of the planned unit development, and easily accessible for all the residents. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners of the planned unit development, but shall not include areas designed primarily for other than common recreational or open space use.

**Community Center:** A facility, generally open to the public, where people may carry on cultural, recreational or social activities. These facilities are not operated for profit and neither alcoholic beverages

nor meals are normally dispensed or consumed. This definition includes facilities for lodge or fraternal organizations.

**Community Garden:** A site used for growing plants for food, fiber, herbs and/or flowers, which is shared and maintained by community residents.

**Conditional Use:** A use permitted in one or more districts as defined by this ordinance upon approval by the Planning Commission, but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible with other existing or permissible uses in the same district or districts, and to assure that such uses shall not be inimical to the public interest.

**Conditional Use Permit:** The documented evidence or authority granted by the Planning Commission to locate a conditional use at a particular location.

**Conference/Convention Center:** One (1) or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.).

**Construction and Heavy Equipment Sales and Rentals:** Retail establishments selling or renting construction, farm, or other heavy equipment. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, etc.

**Contractor Maintenance Yard:** An open storage yard for supplies and operational equipment, but not constituting a junk or salvage yard.

**Convenience Store:** A retail commercial establishment, not exceeding 2,500 square feet in gross floor area, supplying a limited range of food items, magazines, toiletries, and tobacco products to meet the day-to-day needs of residents in the immediate neighborhood and which may or may not include fuel sales.

**Conveyance (Outdoor Vendors):** Any publicly or privately owned vending stand, vending trailer or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.

**Copy Services:** An establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports.

**Corner Lot:** See "Lot, Corner."

**Correctional Facility or Jail:** A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. These facilities house prisoners who are in the custody of city, county, state or federal law enforcement and the facilities are typically government owned.

**Country Club, Private Membership:** An area of twenty (20) acres or more, containing a golf course and a clubhouse available only to the membership. Such a club may contain as adjacent facilities a private club and dining room, swimming pool, tennis courts and similar service and recreation facilities.

**Coverage:** The lot area covered by the buildings including all overhanging roofs except where otherwise specifically designated.

**Cultural Studio:** Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of "Education facilities - Specialized education and training." Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs

produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

**Curb Cut:** Any access to a vehicular use area from any right-of-way of any street, road, or highway.

**Crematory:** A building fitted with the proper appliances for the purposes of the cremation of human remains and includes everything incidental or ancillary thereto.

## D

**Day Care Center:** See “Child Care.”

**District:** Any section or sections of Tontitown for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

**Drive-Through:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle, rather than within the building or structure.

**Duplex / Two Family Dwelling:** See “Dwelling, Two-Family”.

**Dwelling:** A house, apartment building, or other stationary building designed or primarily used for human habitation.

**Dwelling, Accessory:** A single separate dwelling unit that is either attached or detached from a structure the primary use of which is single-family, commercial or industrial. This definition includes garage apartments and granny flats.

**Dwelling, Condominium:** A single dwelling unit in a multi-family structure that is separately owned and that may be combined with an undivided interest in the common areas and facilities of the property.

**Dwelling, Single-Family:** A detached residence primarily designed for or occupied by one (1) family only.

**Dwelling, Two-Family:** A residence designed for or occupied by two (2) families only with separate housekeeping and cooking facilities for each. This definition shall include a duplex and shall not include “dwelling, accessory” which is separately defined. **Dwelling, Manufactured:** A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5153.401, ET SEQ, as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

**Dwelling, Modular:** A dwelling unit constructed in accordance with the standards set forth in the City of Tontitown Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Dwelling, Multi-Family:** A residence designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each. This use shall include apartment houses, and multiple family dwellings. This definition shall not include “dwelling, townhouse or rowhouse” or “dwelling, condominium” which are separately defined.

**Dwelling, Townhouse or Row House:** One (1) of a group of no less than three (3), nor more than twelve (12), attached dwelling units, each dwelling unit located on a separate lot. **Dwelling Unit:** A room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping and cooking.

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

## E

**Easement:** A right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usages given by the owner or land to another party, the City or the public.

**Eave:** The weather protective overhanging lower edge of a roof.

**Educational Facilities:** Structures and/or tracts of land used for the conduct of educational activities. Uses include but are not limited to, public or private:

- College, junior college, university, or professional school
- Elementary
- Secondary
- Specialized education and training
- Trade or craft

**Electric Generating Plant:** A facility that converts non-electrical energy into electricity for sale as a primary use. A variety of sources and/or products may be used to generate power, including but not limited to, petroleum, methane, ethanol, thermal, solar, and hydro-electric. This definition does not include “wind energy systems, large” which has its own definition.

**Equipment Rental, Indoor:** An establishment providing the rental of tools, lawn and garden equipment, party supplies and similar goods and equipment, including incidental maintenance and indoor storage.

**Equipment Rental, Outdoor:** An establishment providing the rental of tools, lawn and garden equipment, party supplies and similar goods and equipment with outdoor storage / rental yards. This definition does not include “construction and heavy equipment sales and rental” which is separately defined.

**Erected:** Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for the construction, excavation, fill, drainage and the like shall be considered a part of erection.

**Excavation:** Any breaking of ground, except common household gardening and ground care.

## F

**FAA:** The Federal Aviation Administration.

**Family:** In addition to customary domestic servants, either (a) an individual or two (2) or more persons related by blood, marriage or adoption, maintaining a common household in a dwelling unit; or (b) a group of not more than four (4) unrelated mentally or physically handicapped persons which may include two (2) additional persons, acting as house parents or guardians, who need not be related to each other or to any of the mentally or physically handicapped persons in the group; or (c) a group not to exceed four (4) persons not all related by blood or marriage, occupying premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, fraternity or sorority, hotel, club, or similar dwelling for group use. A family may include domestic servants employed by said family.

**FCC:** The Federal Communications Commission.

**Financial Institution:** An establishment with the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions,

lending establishments and on-site automatic teller machines.

**Floor Area:** Means total gross area on all floors as measured to the outside surfaces of the exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors and open porches, balconies and terraces.

**Funeral Home:** Establishments engaged in undertaking services such as preparing the dead for burial, arranging and managing funerals. Definition does not include “crematory” which is separately defined.

## G

**Garage Apartment:** A dwelling unit for one family erected above a private garage, as part of it on the same level.

**Garage, Private:** An accessory building or part of a main building used for storage purposes only for not more than four (4) automobiles, or for a number of automobiles which does not exceed one and a half (1 & ½) times the number of families occupying the dwelling unit to which such garage is accessory whichever number is the greater.

**Gas Station:** A facility for furnishing fuels and lubricating oils or materials for use in operation and maintenance of motor vehicles.

**General Plan:** The adopted City of Tontitown comprehensive plan that provides long-range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the future land use plan and master street plan.

**Golf Course:** A tract of land laid out with at least nine (9) holes for playing golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses.

**Goods, Wares, Merchandise:** (Sidewalk Vendors): Shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

**Governmental Service Facility:** A building or structure owned, operated or occupied by a governmental agency to provide governmental services to the public.

**Grade:** The top surface elevation of lawns, walks, drives or other improved surface after completion of construction or grading operation.

**Greenhouse:** A building used for the growing of plants, all or part of which are sold at retail or wholesale.

## ARTICLE 153.201 DEFINITIONS

**Ground Coverage Ratio:** Means the percentage of lot area included within the outside lines of the exterior walls of all buildings located on the lot, except garages and carports in Districts R-1 and R-2 and including the area of porches, decks, patios, breezeways, balconies, and bay windows, except patios not more than six (6) inches above grade.

**Gross Acreage:** The total acreage of the proposed development including areas designated for internal streets and other public facilities.

**Guyed Towers:** A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

### H

**Hazardous Material Storage:** A facility or outdoor area used to store materials which are poisonous, noxious, and otherwise are hazardous to the health of the general public. The facility may be used to store such things as acids, oils, chemicals, etc. prior to use or may be a permanent storage area for waste chemicals, etc. These uses include but are not limited to petroleum products storage.

**Height:** The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the high point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

**Height (Wireless Communication Facilities):** The vertical distance measured from the mean elevation of the finished grade to the highest point on the tower or other structure, even if said highest point is an antenna or antenna array.

**Historical or Memorial Marker:** A sign or tablet attached to a building, indicating the date of construction and/or the names of the building or the principals involved in its construction. Also an attached sign on bona fide historic buildings.

**Home Occupation, Type A:** A nonresidential use carried on within a dwelling, which is clearly subordinate to the Residential use and which does not outwardly change the residential character of the use, lot or structure.

**Home Occupation, Type B:** A nonresidential use carried on within a dwelling, which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use, lot or structure.

**Honey Bee:** All life stages of the common domestic honey bee, *Apis mellifera* species.

### I

**Industrial, Intensive:** A facility and surrounding yard designed primarily for the preparation, production and distribution of objectionable materials such as chemicals, explosives, etc. Further, the production of such materials may create noxious odors or gases objectionable to businesses and residences. This may include manufacturing products from raw materials. Such uses include but are not limited to:

- Aerosol containers, filling of
- Animal and marine fat and oils, manufacturing or processing
- Animal bones, offal or waste; assembly, incinerator, processing or utilization
- Mineral preparation; non-metallic
- Ore reduction
- Paint, enamel, lacquer, turpentine, varnish, manufacturing
- Paper manufacturing or processing
- Arsenals

- Production of crude petroleum, natural gas natural gas liquids
- Chemicals compounding or packaging
- Recycling and reclamation
- Coal preparation
- Rendering of animals
- Creosoting or similar processing
- Rubber products; natural or synthetic manufacturing
- Explosives: manufacture, storage warehousing or wholesaling
- Tanning of hides and skins
- Fireworks: manufacture, storage,
- Tar or tar products manufacturing or processing
- Foundry
- Warehousing or wholesaling flammable gases or liquids; storage
- Batching or mixing plant, asphaltic or portland cement, concrete, mortar or plaster
- Railroad equipment storage or maintenance
- Railroad freight terminal
- Brick, tile, clay or ceramic manufacture
- Scrap or waste materials handling
- Compounding of cosmetics, toiletries, drugs, and pharmaceutical products
- Scrap steel cutting on contract basis
- Dry cleaning and dyeing plant
- Sign painting
- Electronic equipment assembly and manufacture
- Steel products; fabrication and assembly
- Freight depot, railroad or truck freight forwarding service
- Glass or glass products manufacturing

**Industrial, Light:** A facility and surrounding yard designed to provide an area for wholesaling, storage, packaging, display, distribution, and those retail uses accessory to the operations and for light manufacturing, assembling and fabrication without creating a nuisance of odor, noise, dust, vibrations, etc. Uses include but are not limited to:

- Air conditioning and heating equipment manufacture
- Orthopedic or medical supplies manufacturing
- Jewelry manufacturing
- Book bindery
- Bus or truck storage or garage
- Leather goods fabrication
- Bottling works, all beverages
- Mattresses; rebuilding or renovating
- Brooms and brushes manufacturing
- Outdoor advertising plant
- Electrical equipment assembly
- Processing and manufacturing that by reason of operation is not a nuisance in respect to odor, noise, dust, vibration, etc.
- Furniture manufacturing
- Vending machine sales, rental, repair and manufacturing
- Ice plant, dry or natural
- Instrument and meter manufacturing
- Wood distribution
- Venetian blind, window shade and awning manufacture
- Industrial cleaning plant
- Wood or lumber processing
- Monument works

**Inoperable Vehicle:** Any vehicle, automobile, motorcycle, or boat that does not have a current license and/or is in a state of disrepair so that it cannot operate as intended.

## L

**Laboratory, Dental or Medical:** A laboratory which provides bacteriological, biological, medical, prosthetic, x-ray pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises except the custom fabrication of dentures.

**Laboratory, Manufacturing:** Operations involving the compounding of products such as perfumes, pharmaceuticals and the development and assembly of instruments and similar items.

**Laboratory, Research:** A building or part of a building devoted to the testing of any product or animal (including humans) for the purposes of providing written research reports on the results and utilizing those results to produce a new or improved product, medicine, or to better determine how animals function. No manufacturing is conducted on premises except for experimental or testing purposes.

**Lattice Tower:** A guyed or self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications equipment.

**Library:** A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

**Light Fabrication and Assembly Process:** The manufacture and assembly of items not involving an excessive generation of noise, odor, vibration, dust or hazard.

**Livestock Market:** An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment or other means.

**Loading Space:** An off-street space on the same lot with a building or group of buildings, or temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**Lodging, Bed and Breakfast:** An owner occupied dwelling unit that contains no more than five (5) guest rooms where short-term lodging, with or without meals is provided for compensation. Short-term lodging shall be defined as lodging for a period not to exceed twenty-one (21) days.

**Lodging, Hotel or Motel:** A structure containing six (6) or more guest rooms which are used, rented or hired for sleeping purposes and customary lodging services, including maid services, the furnishing and upkeep of furniture and bed linens, and telephone and desk service, by transient guests. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

**Lot:** A parcel of land, legally defined in a recorded deed or a recorded plat, fronting in a public dedicated right-of-way or other approved private drive. 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.

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

**Lot, Corner:** A lot which has an interior angle of less than 180 degrees at the intersection of two streets lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

**Lot Coverage:** The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot.

**Lot Depth:** The horizontal distance between the front lot line and the rear lot line measured at right angles or radial to the centerline of the street.

**Lot, Double Frontage:** A lot which runs through a block having frontage on two nonintersecting streets.

**Lot Frontage:** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

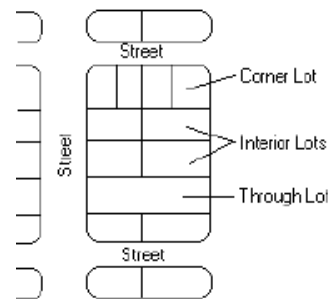
**Lot Lines:** The lines bounding a lot as defined herein:

- A. **Front Lot Line:** In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, "front lot line" shall mean that line separating said lot from that street which is designated as the front street in the plat and/or in the application for a building permit.
- B. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from and parallel to the front lot line and wholly within the lot.
- C. **Side Lot Lines:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

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

**Lot of Record:** A parcel of land that is a lot in a subdivision recorded on the records of the County Recorder's Office, or that is described by a metes and bounds description which has been so recorded prior to the Subdivision Regulations in effect, or lots exempt from those regulations.

**Lot Widths:** The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; measurements shall be made at the front building setback.



## M

**Maintenance Service:** Base facilities for various businesses that provide services on the premises of their clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and appliance, computer, electronics, elevator, equipment, HVAC, instrument, plumbing, and other maintenance and repair services not operating from a retail establishment that sells the products being maintained or repaired. When these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use. When the base facilities for these services include service or storage yards they are instead classified under "Contractor Maintenance Yard."

Manufactured Home – need to define?

**Manufactured Home Park:** A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one (1) or more manufactured homes and which conforms to the provisions of this ordinance.

**Manufactured Home Sales:** A facility for the sale of manufactured home residences.

**Maximum Sign Area:** The aggregate square footage of sign area on a lot or building. For lots fronting on more than one street, the maximum sign area shall be the allowable sign area for each street frontage. Maximum allowable sign area may not be transferred from one street frontage to another.

**Medical Services, Clinic and Urgent Care:** A facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include:

- medical offices with four or more licensed practitioners and/or medical specialties
- out-patient care facilities
- urgent care facilities
- other allied health services

These facilities may also include accessory medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "Office."

**Medical Services, Doctor Office:** A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four (4) licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists etc., other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is instead classified under "Medical Services - Clinic, Urgent Care." Counseling services by other than medical doctors or psychiatrists are included under "Offices - Professional."

**Medical Services, Hospital:** Hospitals and similar facilities engaged primarily in providing in-patient diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, in-patient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports, and on-site ambulance dispatch facilities.

**Medical Services, Laboratory:** Non-research facilities for the testing of blood and tissue samples for medical diagnoses, and for the fabrication of dental prosthetics and eyeglasses. Does not include laboratories for medical research, which are classified under "Laboratory – Research"

**Medical Services, Substance Abuse or Mental Health Treatment Clinic:** A facility where the primary activity is the treatment and care of persons suffering from mental or emotional disorders or substance abuse.

**Minimum Landscaped Open Space:** Means the percentage of lot area which must be maintained in grass or other living vegetation.

**Mining:** A tract of land where various minerals, ore, etc. are extracted from the earth. May also include a distribution area for truck/rail loading of ore and materials. Uses include but are not limited to:

- Exploration for minerals
- Mining of coal, metal ores and nonmetallic minerals other than fuels
- Extraction of sand, gravel, clay, quarrying of rock
- Removal of topsoil for sale purposes

**Mini-Warehouse Storage:** One (1) or more permanent structures, meeting applicable City building requirements, which contain separate storage units or cubicles that are intended to be leased by members of the public.

**Mobile Home:** A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and designed to be used as a year round residential dwelling unit.

**Monopole Tower:** A communication tower constructed without the use of guy wires and ground anchors and consisting of only a single pole. Also called a self-support tower.

**Motor Vehicle (Sidewalk Vendors):** Any vehicles used for displaying, storing, or transporting articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles of any state.

**Multi-Family Dwelling:** See "Dwelling".

**Municipality:** The City of Tontitown, Arkansas.

**Museum:** A building serving as a repository for a collection of natural, scientific or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include the sale of goods and meeting facilities as accessory uses.

## N

**Net metering (wind energy systems):** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

**Nonconforming Building or Structure:** Any building or structure lawfully existing on the effective date of this ordinance, as amended, which does not comply with all of the regulations of this ordinance for governing parking or bulk and area requirements for the zoning district in which such building or structure is located.

**Nonconforming Use:** Any use lawfully being made of any land, building or structure, on the effective date of this ordinance, as amended, which does not comply with all the regulations of this ordinance governing use for the zoning district in which such land, building or structure is located.

### **Nudity or State of Nudity:**

1. The appearance of the bare human buttocks, anus, male genitals, female genitals, or female breast.
2. A state of dress which fails to provide an opaque covering of a human buttocks, anus, male genitals, female genitals, or areola of the female breast.

## O

**Office, Small Scale:** An office facility with a gross floor area of 4,000 square feet or less, characterized by low employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.

**Office, Large Scale:** An office facility with a gross floor area of more than 4,000 square feet, characterized by high employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.

**Office-Warehouse:** A facility combining office and warehouse functions in a single structure, characterized by occasional truck deliveries and that does not create a nuisance such as dust, noise, or odors. Any warehouse activity with heavy trucking activities or nuisances shall be considered under the term "Warehousing or Wholesaling."

**Open Porch:** A porch which has no side or front walls, screens or other enclosures, except structural roof supports where a roof is provided.

**Open Space:** Any unoccupied space on the lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.

**Ordinance:** The Zoning Ordinance which includes both Zoning Map and Zoning Regulations.

**Outdoor Vending, Private Property(Outdoor Vendors):** The exhibit, display, or sale of any food, beverages, goods, wares, or merchandise from a conveyance at a fixed location on private property.

**Outdoor Vending, Public Right-of-Way (Outdoor Vendors):** The exhibit, display, or sale of any food, beverages, goods, wares, or merchandise from a conveyance at a fixed location on public right-of-way.

**Outdoor Vendor (Outdoor Vendors):** Any person that exhibits, displays, sells or offers for sale any food, beverages, goods, wares or merchandise from a conveyance as defined herein. This definition does not include a door-to-door peddler, solicitor, mobile vendors or homeowners having garage sales.

## P

**Park:** A recreational area characterized by open space typically utilized for outdoor sports and other leisure activities.

**Park, Mini:** A park that is one (1) acre or less in size with specialized facilities that serve a limited population. It may include a playground and passive areas for adults. A mini-park typically does not have parking facilities.

**Park, Neighborhood:** A park that is between one (1) and five (5) acres in size with a service area of one-half (1/2) to one (1) mile. Facilities may include playing fields, playgrounds, shelters and restrooms to accommodate active recreation. Parking is typically provided.

**Park, Community:** A park that is between ten (10) and four hundred (400) acres in size serving the residents of Tontitown. It may consist of both active and passive recreation facilities including tennis courts, ball fields, pools, basketball courts, soccer fields, picnic areas, trails, and volleyball courts.

**Parking Facility (as principal use):** A parcel of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same lot.

**Parking Space:** An area of definite length and width, exclusive of drives, aisles or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

**Parking Space, Off-Street:** A space for the parking of a motor driven vehicle within a parking lot and having a permanent means of access to a street right-of-way without requiring passage through another parking space.

**Person:** An individual, proprietorship, partnership, corporation, association or other legal entity.

**Personal Services:** Establishments providing non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops; dry cleaning pick-up stores with limited equipment; laundromats (self-service laundries); locksmiths; pet grooming and/or daycare with no overnight boarding; tailors; tanning salons; day spas; tattoo studio .

**Petroleum Products, Storage and Wholesale:** A facility for the storage and sale of petroleum products.

**Places of Public Assembly:** A meeting place for more than thirty-five (35) persons to which the public or membership group are assembled regularly or occasionally including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

**Planned Residential Development (PRD):** A comprehensive residential planned land development project in which the standard requirements of the zoning ordinance and subdivision regulations may be varied to permit design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

**Planned Unit Development (PUD):** A comprehensive planned land development project in which the standard requirements of the zoning ordinance and subdivision regulations may be varied to permit design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

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

**Plant Nursery:** A facility for growing and selling plants, shrubs or trees and other articles or implements which are involved in the transportation, installation and maintenance of landscaped areas.

**Postal Services:** Facilities that provides packaging and mail services (both U.S. postal and private service), provides mail boxes for lease, and conducts the retail sale of stationary products.

**Principal Building:** See "Building, Principal."

**Principal Use:** The use which fulfills the primary function of an establishment, institution, household or other entity.

**Public Utility:** Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telegraph, transportation of water or cable television.

**Public Way (Outdoor Vendors):** All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

**Public Safety Services:** Facilities operated by public agencies for public safety and emergency services, including fire stations, police and sheriff stations, ambulatory service and including related administrative facilities and interim Incarceration facilities. Does not include "governmental service facility" which is separately defined.

**Pushcart or Handcart (Outdoor Vendors):** Any open-air wheeled device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise and for being pushed by a person without the assistance of a motor vehicle.

## R

**Real Estate Sign:** A sign advertising the premises for sale, rent or lease.

**Receive-Only Antenna:** An antenna less than fifty (50) feet in height privately owned and operated including privately owned satellite dishes.

**Reclassification:** An amendment to or a change in the Zoning Ordinance reflecting a change or revision or modification of the Zoning District Boundary Map.

**Recreational Vehicle:** A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are: travel trailers, truck campers, and motor homes that are not larger than eight and a half (8.5) feet by forty (40) feet.

**Recreational Vehicle Parks:** A lot of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

**Recreational Vehicle Site:** A plot of ground within a recreational vehicle park intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis.

**Recreational Vehicle and Boat Sales and Rental:** Retail establishments selling various vehicles and watercraft for recreational uses, including but not limited to the sale of boats, campers and camper shells, travel trailers, jet skis, and ATVs.

**Recycling and Reclamation:** A facility for receiving, sorting, storing and reconditioning appliances, building materials, and any other salvaged or reclaimed materials.

**Religious Facilities:** A place of worship and religious training and including accessory housing facilities such as a rectory. A place where persons regularly assemble for religious worship which is used only for

such purpose and those accessory activities as are customarily associated therewith. Uses include, but are not limited to church, synagogue or temple, including Sunday school facilities:

- Parish house, parsonage or rectory
- Convent or monastery or novitiate
- Religious retreat facility
- Child care or mother's day out

**Repair Services, Equipment and Large Appliances:** A service facility where various types of electrical, electronic, and mechanical equipment, and home and business appliances are repaired and/or maintained away from the site of the equipment owner. Does not include vehicle repair or maintenance, which is included under "automobile repair," the repair of small home appliances and electronic equipment, which is included under "repair service – household," maintenance and repair activities that occur on the client's site, which are included under "maintenance service" or repair services provided on the site of a retail use that sells the products for which repair services are offered, where the repair services are incidental to the on-site sales.

**Repair Services, Household:** Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding "automobile repair" and "repair services, equipment, large appliances, etc." which are separately defined. Typical uses include home electronics and small appliance repair; shoe repair; watch or jewelry repair; upholstery services, or repair of musical instruments.

**Residence:** A building or part of a building containing one or more dwelling units or rooming units. However, residences do not include:

- A. Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or
- B. Dormitories, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or
- C. Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facility uses.

See also "Dwelling."

**Residential District:** Any land within the city limits of Tontitown, zoned as R-E, R-1, R-2, R-3, R-4, R-MH, and RZL.

**Residential Facility, Assisted Living:** Residential facilities consisting of individual dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring nonmedical assistance with day-to-day living matters. This definition does not include "residential facility – rehabilitation" which is separately defined. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

**Residential Facility, Extended Medical Care:** Residential facilities providing nursing and medical care as a primary use with in-patient beds.

**Residential Facility, Rehabilitation:** Residential facilities, either single dwelling or multi-unit facilities, licensed and supervised by a Federal, State, or county health or welfare agency that provides twenty four (24) hour nonmedical care of more than 8 (eight) unrelated persons rehabilitating from alcohol or drug abuse.

**Residential Facility, Temporary Shelter:** Residential facilities providing temporary shelter for a person physically or mentally abused by family or for displaced persons and/or families. Such place may or may not provide on-site meals but furnishes a safe haven for people.

**Residential Occupancy:** Means those activities customarily conducted in living quarters in an urban setting. Excluding activities resulting in noise which constitutes a nuisance in a residential area and activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap materials.

**Restaurant:** An establishment in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as grills, cafes, drive-through and any fast food establishment permitting consumption on the premises.

**Restaurant, Drive-in:** Any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages or other food, served directly to, or permitted to be consumed by, patrons in automobiles or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site, outside the main building.

**Retail Complex:** A primarily retail commercial site with three (3) or more separate businesses sharing common pedestrian and parking areas.

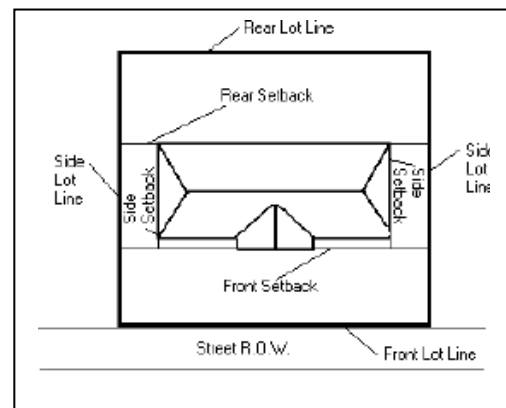
**Retail, Large Scale:** A retail store with a gross floor area of more than 4,000 square feet for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term "food store" includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.

**Retail, Small Scale:** A retail store with a gross floor area of 4,000 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term "food store" includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.

## S

**Salvage Yard:** Any parcel of land or building for the which the principal or accessory use is the storing, keeping, dismantling, collection, salvaging, buying or selling of (1) scraps or discarded pieces of metal, paper, rags, tires, bottles, furniture and other materials, (2) inoperable, wrecked, scrapped, ruined or discarded automobiles, automobile parts, machinery or appliances. A junk or salvage yard shall not include premises on which such uses are conducted entirely within a completely enclosed building, nor shall a junk or salvage yard include premises used primarily for the sale or storage of operable automobiles or for the overhaul or full repair thereof, so long as no inoperable junk or wrecked automobile remains outside more than thirty (30) days. Any premises on which there remains outside more than thirty (30) days an inoperable, partially dismantled, wrecked, or junked automobile, shall be deemed for the purpose of this ordinance, a junk or salvage yard.

**Setback:** The required distance between every structure and any lot line on the lot on which it is located.



**Sewage Treatment Plant:** A facility designed for the treatment of sewage that is provided and maintained by the county, municipality, or a utility company which a governmental agency has specifically approved as acceptable.

**Sexually Oriented Business:** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, or adult theater as the same are defined herein.

**Shadow flicker (wind energy systems):** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

**Sidewalk (Outdoor Vendors):** All that area legally opens to the public used as a pedestrian public way between the curb line and the legal property line of the abutting property.

**Sidewalk Café:** An outdoor dining area, not enclosed by a fence or other visual barriers in excess of thirty-six (36) inches in height, placed on a public right-of-way and contains removable tables, chairs, planters or other appurtenances and is abutting/contiguous to a restaurant that performs food preparation, sanitation, and related services for the sidewalk café.

**Sidewalk Sales (Outdoor Vendors):** A special temporary sale, not exceeding three consecutive days, to the public of any goods, wares or merchandise or services by any retail or wholesale business, which sale is conducted on private property of the business selling the merchandise or the public sidewalk immediately adjacent to the retail or wholesale business selling the merchandise.

**Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names or trademarks by which anything is made known such as are used to designate an individual, a commodity, a firm, an association, a corporation, a profession, a business, a service, or a product, which are visible from any public street or right-of-way and designed to attract attention. "For Sale" and "For Rent" signs shall be deemed signs within the meaning of this definition, but the term "sign" shall not include the flag, pennant or insignia of any nation, state, city, or other political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event, used for a public purpose in the public interest. Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever including billboards and statuary, placed for outdoor advertising purposes on the ground or any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing, or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross-section of such structure. Neither directional, warning or other signs posted by public officials in the course of their public duties, nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this Ordinance.

**Sign, Awning:** A sign which is a part of a fabric or other non-structural awning.

**Sign, Changeable Copy:** Any sign where letters or numbers displayed on the sign can be changed periodically on the sign to display different messages.

**Sign, Construction:** A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and /or the expected completion date.

**Sign, Door:** A sign which is attached to, painted on or etched onto or into a door. A sign in a window which is part of a door is a door sign for the purposes of this section.

**Sign, Electronic Changeable Copy:** Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed surface composed of electronically illuminated or mechanically driven changeable segments.

**Sign, Freestanding:** A sign which is not attached to a building and permanently attached to the ground by one (1) or more supports. There are two (2) types of freestanding signs:

1. **Low stature freestanding signs (ground or monument signs):** freestanding signs in which the distance from the ground to the highest point of the sign is five (5) feet or less.
2. **High stature freestanding signs:** freestanding signs in which the distance from the ground to the highest point of the sign is more than five (5) feet.

**Sign, Incidental:** An on-premise sign giving information or direction for the convenience and necessity of the public such as "entrance," "exit," "no admittance," "telephone," "parking," etc.

**Sign, Manual Changeable Copy:** Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

**Sign, Marquee:** A sign used to identify a theater or a sign projection over the entrance to a theater.

**Sign, Monument:** A low-stature, freestanding, permanent sign placed on a solid base that extends a minimum of seventy-five (75) percent of the length and width of the sign and the sign display area is completely enclosed with materials that match the facade of the principle use. Pole or pylon signs shall not be classified as monument signs.

**Sign, Noncommercial:** A sign which is not an on-premise or off-premise sign and which carries no message, statement, or expression related to the commercial interests of the sign owner, lessee, author or other person responsible for the sign message. Noncommercial signs include but are not limited to: signs expressing political views, religious views or signs of non-profit organizations related to their tax-exempt purposes.

**Sign, Obsolete:** A sign relating to or identifying a business or activity which has not been conducted on the premises for six (6) months, or to a transpired election or event, or to a political party or non-profit organization that no longer exists; in addition, the structure for a sign that is not allowed under this ordinance if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of the ordinance, or a sign which has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.

**Sign, Off-Premise, Off-Site Sign, or Billboard:** A sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located, or which business, commodity, service or entertainment forms only minor or incidental activity upon the premises where the sign is displayed. The sale of a commodity is considered a minor activity if the commodity advertised is a specific brand or if the advertising content is not directly controlled, or has in the past not been directly controlled by the operator of the on-premises business. These product-oriented signs shall be considered on-premises signs if they comply with on-premise sign requirements.

**Sign, On-Premise or On-Site:** A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

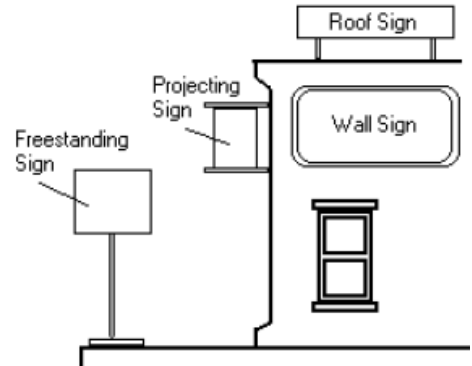
**Sign, Portable:** Any sign not permanently attached to the ground or other permanent structure, including but not limited to signs: with attached wheels; converted to A- or T- frame signs; menu and sandwich board signs; gas, air or hot air filled displays; signs attached or painted on vehicles parked and visible from the right-of-way, unless said vehicle is used as a vehicle in the normal day-to-day operations of the business.

**Sign, Projecting:** A sign forming an angle with a building which extends from the building and is supported by the building.

**Sign, Public:** A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.

**Signs, Real Estate:** A sign pertaining to the sale, rent or lease of real property.

**Sign, Roof:** A sign which is higher than the roof to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.



**Sign, Suspended:** A sign which is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.

**Sign, Temporary:** Any sign which is intended for temporary use or which is not permanently mounted and intended for a designated period in time.

**Sign, Wall:** Any sign, other than a projecting sign or a temporary banner sign, which is permanently attached to or painted on any wall of any building and projects from the plane of the wall less than twelve (12) inches. This definition shall not include freestanding walls. A sign attached to the lower slope of a mansard or canopy roof, or a sign affixed to or forming an awning or a canopy, shall be considered a wall sign for purposes of this ordinance, notwithstanding the fact that certain portions of such a sign may project more than twelve (12) inches. For purposes of this section only, a "wall" shall include any permanent architectural extension of a wall, including parapets, even of such extension projects beyond or above the enclosed portions of the building. For signs higher than the roof, see "Sign, Roof."

**Sign, Window:** Any sign which is not a temporary sign and which is attached to, painted on or etched into a window or which is displayed within twelve (12) inches of the window and is legible from outside the window.

**Sign Area:** The sign area is measured by finding the area of an imaginary rectangle, circle or triangle which fully encloses the sign message, including background and logos but not including supports or braces. For multi-faced signs, sign area shall be computed from the vantage point which gives a view of the largest amount of sign area. If two (2) identical signs are back to back, and are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

**Sign Height:** The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any berming or filling or excavating solely for the purpose of locating the sign, shall be computed as part of the sign height.

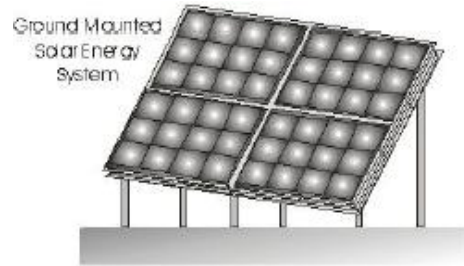
**Single Family Dwelling:** See "Dwelling."

**Site Plan Review:** The process whereby the Planning Commission and/or staff review the site plans and maps of a developer to assure that they meet the stated purposes and standards of the Zoning Ordinance and Subdivision Regulations.

**Slaughterhouse:** A facility for the slaughtering of animals; processing and refining of their byproducts; and prepared for distribution; activities may include packing, treating, storage or sale of the product on the premises.

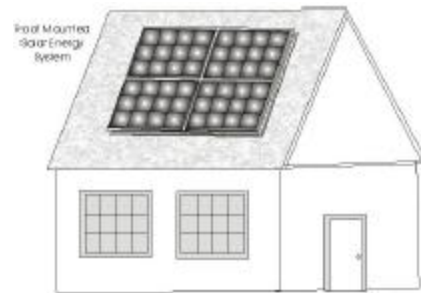
**Solar Energy System:** An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy to meet all or a significant part of a structure's energy requirements.

**Solar Energy System, Ground Mounted:** A solar energy system that is supported by a grid system that is attached to the ground.



**Solar Energy System, Pole Mounted:** A solar energy system with solar panels attached to the top or side of a vertical pole.

**Solar Energy System, Roof Mounted:** A solar energy system that is supported by a grid system that is attached to the roof's structural members.



**Solar Panels (solar energy systems):** A solar photovoltaic panel, or solar hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solid Waste Disposal:** The entire process of storage, collection, transportation, processing, and disposal of solid wastes by any city, authority, county or any combination thereof, or by any person engaging in such a process as a business. Uses include but are not limited to solid waste disposal and garbage or trash: assembly, incineration or processing.

**Special Event (Sidewalk Vendors):** Any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the city of Tontitown for a period of time not to exceed 7 days.

#### **Specified Sexual Activities:**

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

#### **Specified Anatomical Areas:**

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**Stable (Commercial):** A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

**Stealth Technology:** Systems, components and materials used in the construction of WCF to make it compatible with the surrounding property.

**Story:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

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

**Street, Intersecting:** Any street which joins another street at an angle, whether or not it crosses the other.

**Structure:** Anything constructed or erected for human occupancy and/or entrance, the use of which requires location on the ground or attached to something having a location on the ground.

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

## T

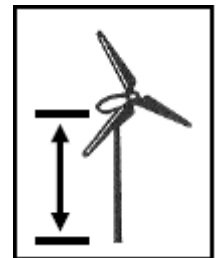
**Taxidermy:** The art of preparing the skins of animals to make them appear lifelike.

**Telecommunications:** The transmission, between or among points as specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

**Temporary Uses:** Land uses that are not permanent in nature and often include, but are not limited to, carnivals, circus, tent revivals, real estate sales offices, construction facilities and Christmas tree stands.

**Total height (wind energy systems):** On a wind turbine, the distance measured from ground level to the blade extended at its highest point.

**Tower (wind energy systems):** The monopole, guyed monopole or lattice structure that supports a wind generator.



**Tower height (wind energy systems):** On a wind turbine, the height above grade of the fixed portion of the tower, excluding the wind generator.

**Tower or Communication Tower:** Any structure that is designed and constructed for the primary purpose of supporting one (1) or more antennas, including lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one (1) or more antennas, despite the fact that such structure may currently, or in the future, actually support one (1) or more Antennas. Transmission Tower/Station: A tower and/or associated station which receives and/or sends radio and/or television waves such as radio towers. This definition does not include amateur radio communication installations. Uses shall include but not be limited to radio transmitting stations or towers and television exchange station relay towers.

**Transportation Facilities, Excluding Airports:** Facilities providing surface transportation for the general public. These may or may not be publicly-owned. Uses include but are not limited to: Bus station, truck, bus, train terminals, and taxicab stand or dispatching station.

**Travel Trailer:** An object designed for accommodation intended and used exclusively for travel, recreation and vacation and which is capable of being drawn or propelled by a motor vehicle or is self-propelled and includes tent trailers or similar transportable accommodation, but does not include a mobile home.

## U

**Use:** A purpose to which land is committed.

**Use Area:** A zone established for a certain type of use such as commercial or residential.

**Utility Facility:** A fixed-base structure or facility serving as a junction point for transferring electric utility services from one transmission voltage to another or to local distribution and service voltages, and similar facilities for water supply and natural gas distribution. These uses include any of the following facilities:

- corporation and maintenance yards
- electrical substations and switching stations
- natural gas regulating and distribution facilities
- public water system wells, treatment plants and storage
- telephone switching facilities
- wastewater treatment plants, settling ponds and disposal fields

## V

**Variance:** A device which grants a variation from the literal provisions of the Zoning Ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration.

**Vehicle (Sidewalk Vendors):** Every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

**Vending Stand (Outdoor Vendors):** An open-air fixture or device, such as a showcase, table, bench, rack, handcart, pushcart, stall that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise at a fixed location. This definition does not include vending trailers.

**Vending Trailer (Outdoor Vendors):** A device enclosed on at least three (3) sides with a permanent roof, mounted on wheels, designed to be pulled by a motor vehicle for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.

## W

**Wall:** One (1) of the sides of a room or building connecting floor and ceiling or foundation and roof.

**Warehouse or Wholesaling:** A use engaged in indoor storage of manufactured products, supplies and equipment characterized by frequent heavy trucking activities or nuisances such as dust, noise and odors, but not involved in manufacturing or production. This definition does not include the "bulk storage of highly flammable materials," which has its own definition.

**Water Treatment Plant and Related Facilities:** A facility for the systematic collection and treatment and dispersal of water.

**Wind Energy System, Small:** A wind energy conversion system used primarily to generate power for on-site consumption, one hundred (100) kW or less, consisting of a wind turbine, tower, base and associated control or conversion electronics.

**Wind Energy System, Large:** A wind energy conversion system used primarily to generate power for off-site consumption, more than one hundred (100) kW, consisting of one (1) or more wind turbines and associated accessory facilities.

**Wind Turbine (wind energy systems):** The parts of the wind energy system including the blades, generator and tail.

**Wireless Communications Facility (WCF) (cell towers):** A land use facility that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. It includes antennas, microwave dishes, horns and other types of monopoles, or similar structures supporting said equipment, equipment buildings, shelters or cabinets, and other accessory development. Wireless communication facility includes personal wireless services as defined in the Federal Telecommunication Act of 1996, and as subsequently amended. Wireless communication facility shall not include the following: federally licensed amateur radio stations and facilities used exclusively for receive-only antennas.

## Y

**Yard:** An open space at grade between a building and the adjoining lot line, unoccupied and unobstructed by a portion of a structure from the ground upward, except where otherwise specifically provided in this ordinance that the building or structure may be located in a portion of a yard required for main buildings. In measuring a yard for the purpose of determining the width of the side yard, the depth of the front yard, or the depth of the rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

**Yard, Front:** The required area of open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building or of any open, unenclosed porch or paved terrace as measured from the exterior face of the building foundation.

**Yard, Rear:** The required area of open space extending across the full width of the lot between the rear most main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such building.

**Yard, Side:** The required area of open space between the main building and the side lot line, extending from the front yard or front lot line, where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building.

**Yard, Exterior:** Any yard which is adjacent or parallel to a public or private street.

**Yard, Interior:** Any yard which does not run adjacent to or parallel with a public or private street.

## Z

**Zero Lot Line:** See "Swelling, Zero Lot Line."

**Zoning District:** A section of the City designated in the Zoning Ordinance text in which requirements for the use of land and building and development standards are prescribed.

**Zoning District Boundary:** That boundary line which separates unlike zoning districts.

## **ARTICLE 153.301 ADMINISTRATION**

### **SEC. 153.301.1 ENFORCEMENT**

The Zoning Ordinance shall be enforced by the Building Officials appointed by the Mayor. It shall be a violation of this ordinance for any person to erect, alter, move or improve any building or structure until a building permit has been obtained under the regulations of this ordinance.

### **SEC. 153.301.2 FEES**

- A. Establishment of Fee Schedule.** The City Council of the City of Tontitown, Arkansas shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Building Inspector and may be altered or amended only by the City Council.
- B. Fee to be paid in full.** Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

### **SEC. 153.301.3 PLANNING COMMISSION**

See Title 13, Section 13.04 of the City Code.

### **A. SEC. 153.301.4 BOARD OF ZONING ADJUSTMENT Creation and Appointment**

- 1. Memberships and Terms.** The Planning Commission shall serve at the Board Of Zoning Adjustment.
- 2. Removal.** A member of such Board of Zoning Adjustment, once qualified, can thereafter be removed during his/her term of office only for cause on a majority vote of the City Council. In the event of the death, resignation, or removal of any such member before the expiration of his/her term, a successor shall be appointed by the City Council to serve his/her unexpired term by resolution.

### **B. Organization**

- 1. Officers.** A Chairperson, Vice Chairperson, and Secretary shall be elected annually by the Board from among its membership. The Chairperson, or in his/her absence, the Vice Chairperson, shall preside at all meetings, shall decide all points of order or procedure, and, as necessary, shall administer oath and compel the attendance of witnesses.
- 2. Rules.** The Board of Zoning Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Ordinance.
- 3. Meetings.** Meetings shall be held on a regular schedule and at such other times as the Board may determine. All meetings shall be open to the public.
- 4. Minutes.** The Board of Zoning shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact; it shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the Planning office.
- 5. Quorum.** A quorum of the Board shall consist of three (3) members. The concurring vote of three (3) of the Board members shall be necessary to revise any order or decision of the enforcement officer or to decide on any matter upon which it is required to pass under this Ordinance

- C. **Powers and Duties.** The Board of Zoning shall have all the powers and duties prescribed by law and by this Ordinance, which are more particularly described as follows:
1. **Appeal of Interpretation.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this Zoning Ordinance. The Board may affirm or reverse, in whole or in part, said decision of the administrative official.
  2. **Variances.** To hear and decide requests for variances from the literal provisions of the zoning ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the ordinance.
  3. **Determination of Zoning District Boundaries.** In addition to the powers and duties specified above, the Board shall also have the powers and duties to hold public hearings and interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

#### **SEC. 153.301.5 BUILDING PERMITS**

Whenever any structure or building is to be erected or structurally altered, including but not limited to modular or manufactured structures, a building permit shall be obtained from the Building Official or his designee(s). Every applicant for a building permit shall furnish the following information:

- A. **Plans.** A plot plan, drawn to scale, showing the exact size, shape and dimension of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities and all easements on the lot.
- B. **Declaration.** A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing building accommodates and which each existing and proposed building is designed to accommodate.
- C. **Additional Information.** Additional information relating to the proposed improvement needed to determine compliance with these regulations.
- D. **Survey.** A survey prepared by an engineer or surveyor registered in the State of Arkansas of the boundaries of the lot on which the improvement is proposed to be located may be required by the Mayor or Enforcing Officer.
- E. **Filing.** A record of such application and plats shall be kept by the Enforcing Officer, and is subject to review by the Planning Commission.

#### **SEC. 153.301.6 CONDITIONAL USES**

- A. **General Purpose.** The purpose of this section is to define the concept of conditional uses; to establish standards by which the Planning Commission shall evaluate conditional uses; and to set forth procedures for processing conditional uses.
- B. **Description.** A conditional use is a use that conforms to the intent of the General Plan for a specific area and is generally allowable. The use may represent potential problems, however, with respect to its impact on neighboring property or to the city as a whole. For this reason, it requires a careful review of its location, design, configuration, and spatial impact to determine the desirability of allowing it on a particular site.

The conditional use process must not allow an applicant to secure a use variance or as a means to circumvent the intent of the General Plan or Zoning Ordinance. Building configurations, footprints, and outlines should be compatible with other uses permitted for a district. Whether a proposed use is appropriate in a particular location depends upon a careful evaluation of the impacts to the neighborhood and the city by the Planning Commission and a weighing of conditions and methods proposed by the Commission or by the applicant to ameliorate those impacts.

- C. **Table of Permitted Uses.** Where the letter “C” appears for certain uses in the Table of Permitted Uses, the use is permitted subject to approval by the Planning Commission of a Conditional Use Permit.

**D. Procedure.**

1. **Application.** An application shall be filed by the property owner with the City Planning Department in accordance with current Planning Department policies and procedures. Said application shall be filed no less than twenty-two (22) days prior to the Planning Commission meeting. Such applications shall show the location and intended use of the site and include a general statement as to the intent of the use. Applications may be obtained from the Planning office. A general graphic representation of what is proposed shall be submitted as well and shall include the following:

- (a) The location, size, and use of buildings, signs, land and improvements;
- (b) The location, size and arrangement of parking space, loading space, driveways and street access;
- (c) Proposed screening and landscaping;
- (d) The use of adjoining property;
- (e) Scale, north arrow and vicinity map; and
- (f) Any additional information needed by the staff because of conditions peculiar to the development.

2. **Notification.**

- (a) *Legal Notice.* The City of Tontitown will file a legal notice in regard to the proposed conditional use, which must run in the local newspaper at least once no later than fifteen (15) days prior to the public hearing. This public notice must include the conditional use sought, the location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice), and the time, date and place of the public hearing.
- (b) *Sign.* The Planning Department will post one or more public hearing signs on the premise of said property. Such sign(s) shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line not later than seven (7) days prior to the public hearing.

3. **Staff Review.** The Planning Department staff shall review the proposed conditional use and report to the Planning Commission on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this Ordinance and shall make recommendations to the Planning Commission.

4. **Public Hearing.** The City Planning Commission shall hold one (1) or more public hearings thereon. The Planning Commission shall review conditional use applications at its regularly scheduled meetings, at which time interested persons may appear and offer information in support of, or against, the proposed conditional use.

5. **Planning Commission.**

- (a) *Action.* The Planning Commission may approve, deny, defer, or modify a conditional use request based on findings of fact with regard to the standards set forth in Section E below.

(b) *Conditions.* The Planning Commission may impose conditions and restrictions upon the premises benefited by a Conditional Use Permit as may be necessary to reduce or minimize any injurious effects of the conditional use. Such action may be necessary to ensure that the conditional use is compatible with surrounding property to better carry out the intent of this Ordinance. Once any portion of the conditional use permit which has been authorized is utilized, all such conditions pertaining to such authorization shall become immediately operative. Such conditions may include time limits for exercise of such authorization and commence within a reasonable time. The violation of any condition so imposed shall constitute grounds for revocation of the conditional use permit.

**E. Standards for Approval.** In carrying out the purpose of this section, the Commission's consideration shall include, but not be limited to, the following development standards and design specifics. The appropriateness of these standards shall be determined at the discretion of the Planning Commission for each specific conditional use location.

1. The proposed use shall be so designated, located and operated so that the public health, safety and welfare will be protected.
2. The proposed land use shall be compatible with other area properties located near it.
3. The proposed use shall be in compliance with the provision of "Conditional Uses" as set out in this Ordinance.
4. The proposed use shall be in conformance with all applicable provisions stated in this Ordinance for the district in which the use is to be located. The use shall facilitate public convenience at that location.
5. The proposed conditional use shall be in conformance with all off-street parking and loading requirements of this Ordinance and ingress and egress and pedestrian ways shall be adequate.
6. Safeguards limiting noxious or offensive emissions, including lighting, noise, glare, dust and odor shall have been addressed in the proposed use application.
7. Landscaping and screening of the proposed use shall be in accordance with these Ordinance regulations and the City of Tontitown landscaping regulations are these defined somewhere? Subdivision regs?
8. Proposed use signage shall be in accordance with the provisions of this Ordinance.
9. Open space located on the proposed use shall be maintained by the owner/developer.
10. The size and shape of the site, including size, shape and arrangement of proposed structures shall be in keeping with the intent of this Ordinance.
11. The Planning Commission shall in no case authorize less than minimum requirements of the Ordinance relating to height, area, setbacks, parking or landscaping.
12. The Planning Commission shall not permit any use in a zone as a conditional use that is not permitted under the Zoning Ordinance.

**F. Amendments.** Amendments or major changes to a conditional use authorization must follow the same process as the original conditional use; however, the Commission may delegate to the staff authority to approve minor modifications to the conditions approved, including modifications to an approved development plan.

- G. Building Permit.** No building permit shall be issued except in conformance with the provisions of this section.

#### **SEC. 153.301.7 VIOLATIONS AND PENALTIES**

A violation of this ordinance shall be deemed a misdemeanor and shall be punishable as set forth in the Tontitown Municipal Code Section 10.99 .

#### **SEC. 153.301.8 ZONING ORDINANCE AMENDMENTS**

- A. Authority.** The City Council shall have the authority to enact amendments to the text or map of the Zoning Ordinance in accordance with the provisions of this section. Such action may be initiated on the recommendation of the Planning Commission, on its own motion, or on petition from a property owner. Before action is taken in regard to any amendment of the Ordinance, the Planning Commission shall have reviewed the case and given a recommendation. However, nothing in this section shall be construed to limit the City Council's authority to recall the ordinances and resolutions by a vote of the majority of the Council.
- B. Guidelines for Decision Making.** The City Council may consider several recommendations and planning documents when attempting to make a decision on the granting of an amendment. Such guidelines may be derived from recommendations from the Planning Commission and planning staff, use of provisions of the General Plan, Master Street Plan, Master Parks Plan, Land Use Plan, Capital Improvements Plan, and Community Facilities Plan, as well as any other appropriately approved document created to provide required public facilities necessary to protect the public interest. Any denial by the City Council of an amendment shall be final for one (1) year and the same application may not be reinitiated until the expiration of that deadline.
- C. Procedure for Amendments by Property Owners**
- 1. Application.** An application giving the legal description of the property involved and the zoning classification requested for the property, shall be submitted to the Planning Commission by the agent of the property owner no less than twenty-two (22) days prior to the public hearing. The petition shall also include a statement and diagram explaining why the proposed changes will not conflict with the surrounding land uses. A proposed ordinance rezoning the property shall also be submitted with the petition for approval as to its correctness and form.
  - 2. Public Hearing.** The Planning Commission shall hold a public hearing on a proposed amendment.
    - (a) *Notice of Public Hearing.* Notice of the public hearing shall be published in a newspaper of general circulation in the City, at least one (1) time fifteen (15) days prior to the hearing. The Planning Department will publish the notice of proposed amendment. The notice shall include the rezoning being sought, the location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice), and the time, date and place of the public hearing.
    - (b) *Sign.* The Planning Department will post a notice of public hearing sign on said property to be rezoned. Such sign(s) shall be clearly visible, unobstructed to the passing general public and posted on or near the front property line not later than fifteen (15) days prior to the public hearing.
    - (c) *Certified Mail.* The property owner will be required to notify, by certified mail with return receipts requested and/or petition, all property owners within 200 feet of the property of his intention to apply for a zoning amendment no less than fifteen (15) days prior to the public hearing. The petitioner shall state the date and time of the public hearing with a certified letter and/or petition. The postmarked certified receipts and/or petitions shall be submitted to the Planning Department staff not less than ten (10) days prior to the Planning Commission meeting along with a map showing the location of the property in question as well as the owners within 200

feet of the property and a letter from the petitioner certifying that the map shows a complete list of those property owners.

### **3. Planning Commission Action.**

- (a) *Approval.* Following the public hearing, the proposed amendment may be approved as presented or in modified form, by a majority vote of the Planning Commission and recommended for adoption by the City Council, with reasons for recommendation stated in writing. No petition shall be reviewed by the City Council without a report from the Planning Commission on the case.
- (b) *Denial.* If the Planning Commission disapproves a proposed amendment, the applicant may appeal to the City Council. in accordance with Section 153.301.9 Appeals to City Council.
- (c) *Forward to City Council.* Following approval by the Planning Commission, the petition will be sent to the City Council for action. A petitioner may withdraw the request for an amendment prior to action by the City Council.
- (d) *Re-consideration.* No application for a zoning amendment will be considered by the Planning Commission within six (6) months from date of final disapproval of a proposed amendment. The resubmission must meet all requirements for a rezoning request and must be a different rezoning.

- 4. City Council Action.** The City Council by majority vote, may by ordinance, adopt the recommended amendment submitted by the Planning Commission or may return the proposed amendment to the Planning Commission for further study and recommendation. If the City Council does not concur with the recommendation of the Planning Commission, either as first submitted or as submitted after re-study, the City Council may, by majority vote, amend this ordinance by granting the request for amendment in full or in modified form. However, nothing in this section shall be construed to limit the City Council's authority to recall the ordinances and resolutions by a vote of a majority of the council.

### **D. Procedures for Amendments by the City Council.**

- 1. Refer to Planning Commission.** The City Council may refer a request for amendment to the Planning Commission to be considered in accordance with the procedures outlined in Section E, below.
- 2. Emergency.** The City Council may act upon a request to amend this Ordinance when an emergency exists which threatens the health, safety, welfare, or morals of the citizens of the City. An amendment may be made under this section upon the approval of two-thirds (2/3) of the entire City Council.

### **E. Procedures for Amendments by the Planning Commission.**

- 1. Initiation.** The Planning Commission, may, from time to time, either upon request by one or more of its members, by direction of the City Council, or in the course of its normal planning activities, consider amendments or additions to the Zoning Ordinance.
- 2. Studies.** The Planning Commission shall prepare a work program and make studies, including the preparation of maps, to support its decisions regarding possible amendments.
- 3. General Plan.** If the proposed amendments are not consistent with the General Plan, the Planning Commission shall first consider and adopt any necessary changes to the General Plan.
- 4. Public Hearing.** The Planning Commission shall hold a public hearing to consider amendments to the Zoning Ordinance and amendments to the General Plan, if required.

5. **Notification.** Changes in zoning classifications initiated by the Planning Commission shall be considered comprehensive changes affecting the entire city and no individual notifications shall be made. A map indicating the proposed changes shall be available in City Hall for interested citizens and property owners.
6. **Planning Commission Action.** Following the public hearing, the proposed plans may be recommended as presented, or in modified form, by a majority of the entire Planning Commission.
7. **City Council Action.** Following its adoption of plans and recommendations of ordinances and regulations, the commission shall certify adopted plans or recommended ordinances and regulations to the City Council for its adoption.

#### **SEC. 153.301.9 APPEALS TO CITY COUNCIL**

- A. **Notice of Appeal.** Any decision by the Planning Commission regarding a rezoning or conditional use permit, may be appealed to the City Council. In order to make an appeal, the aggrieved party must file a "Notice of Appeal" with the City Clerk within 30 days of the Planning Commission's final action. The Notice of Appeal shall be filed on forms and in a format prescribed by the Planning Commission. As a minimum however, the applicant shall provide the following information:
  1. Summary of any reasons provided by the Planning Commission concerning the decision made in the case.
  2. Reasons why the applicant of the appeal contends that the Planning Commission erred in its decision.
  3. Reasons why the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Planning Commission's action were reversed.
  4. Any new and pertinent information bearing on the case which may have been overlooked by the Planning Commission or which may have come to light following the meeting at which the Planning Commission made its decision.
- B. **City Council Action.** Appeals to the City Council shall be de novo; however, they shall first be considered on the record of the public hearing and Planning Commission meeting at which the original case was heard and the original decision made. Based on this review, the City Council may affirm the Planning Commission's decision, reverse it, or send the case back to the Planning Commission for further study and re-certification. If new information is placed before the Council that, in the opinion of the Council, would affect the Planning Commission's decision, the Council may refer the case back to the Planning Commission for further study, including the new information, and re-certification.

#### **SEC. 153.301.10 VARIANCES**

##### **A. Application.**

1. **Written Application.** All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board within ten (10) days after the decision has been rendered by the administrative official. Every appeal or application shall refer to the specific provision of the Ordinance involved and shall exactly set forth:
  - (a) The interpretation that is claimed,
  - (b) The use for which the permit is sought, or
  - (c) The details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

2. **Scale Drawing.** Each applicant must submit, at least ten (10) days prior to the public hearing, a scale drawing showing the requested variance along with all relevant information, including the exceptional condition or situation of the property which causes the exceptional practical difficulty or undue hardship for which relief is being sought.
3. **Submittal.** The appeal or application shall be filed with the officer from whom appeal is taken who shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

**B. Public Notice and Hearing**

1. **Notice in Publication.** The Board shall fix a reasonable time for the public hearing of an appeal, cause public notice to be given of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Said public notice shall be published at least once not less than seven (7) days preceding the date of such hearing in a newspaper of general circulation in Tontitown. The public notice shall give the particular location of the property on which the appeal is requested, including a legal description and an address (if no address is available, a description which is clear to the average lay person will suffice.), as well as a brief statement of that the appeal consists.
2. **Post Sign.** The Planning Department shall post a sign on the property for which the variance is being sought at least seven (7) days prior to the date of the public hearing. This sign shall be in plain view of and easily readable from a public street.
3. **Public Hearing.** Public hearings may be adjourned from time to time, and, if the time and place of the adjourned meeting be publicly announced when the adjournment is made, no further notice of such adjourned meeting need be published. At a public hearing any party may appear in person, by agent, or by attorney.

**C. Findings.** A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Zoning Adjustment unless and until:

1. The applicant demonstrates that:
  - (a) special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
  - (b) that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance;
  - (c) that special conditions and circumstances do not result from the actions of the applicant; and
  - (d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.
2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
3. The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

4. The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  5. **Conditions.** In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.
  6. **Uses.** Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.
- D. Effect of Appeal.** An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board, that, by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application, and notice to the person from whom the appeal was taken.
- E. Time Limit on Permits.** No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.
- F. Fee.** The fee for any appeal or application to the Board shall be established by the Tontitown City Council and subject to periodic change. Current fee schedules are available with the application. Fees are nonrefundable.
- G. Appeals from Board of Zoning Adjustment** Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Zoning Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.
- H. Reconsideration.** If a variance request is denied, it shall not be reconsidered by the Board of Zoning Adjustment within one year from the date of denial of the variance request. The resubmission must meet all requirements for a variance request and shall be a different variance request.

#### **SEC. 153.301.11 SEVERABILITY**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, the remainder of the Ordinance shall not thereby be invalid, but shall remain in full force and effect.

#### **SEC. 153.301.12 REPEAL OF CONFLICTING ORDINANCES**

Any ordinance now in effect that conflicts with any provision of this Ordinance is hereby repealed, held to be invalid and to no effect to the extent of the conflict.

#### **SEC. 153.301.13 EMERGENCY CLAUSE**

Whereas no emergency exists for the immediate taking effect of this Ordinance, therefore, the same shall be in full force and effective one month from and after its passage.

#### **SEC. 153.301.14 CONVERSION OF PREVIOUS ZONING DISTRICTS**

The zoning classification or districts which were created and existed under the previous zoning ordinance are hereby converted into the zoning classifications or districts which are created and established herein,

under the terms of this ordinance, according to the following conversion table. Said table reflects the zoning classifications or district that same will be classified as under this ordinance.

# ARTICLE 153.401

## ZONING DISTRICT REGULATIONS

### SEC. 153.401.1 ZONING DISTRICT BOUNDARY MAP

- A. **Official Zoning Map.** This Ordinance consists of a map and text. The City of Tontitown shall maintain the Official Zoning Map in the City Clerk's Office or at a convenient location designated by the Mayor. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the Official Zoning Map consists of the paper copy signed by the Mayor and designated as such, as may be amended by ordinance adopted by the City Council.
- B. **Boundary of Districts.** The boundaries of the zoning districts are hereby established as shown on the map entitled "Official Zoning Map" of Tontitown, Arkansas as may be amended by ordinance adopted by the City Council, which is part of this Ordinance and which is on file in the Office of the City Clerk. A digital copy of this map is maintained by the GIS department.
- C. **Interpretation of District Boundary.** Where due to scale, lack of detail or illegibility of the zoning map, there is uncertainty, contradiction or conflict as to location of any zoning district boundary as shown thereon; the Designated Staff shall make use of the GIS system to clarify actual boundary location. Any person in disagreement with any such interpretation may appeal such interpretation to the Board of Zoning Adjustment. All City Commissions, Boards or personnel interpreting the zoning map or deciding any appeal, shall apply the following standards:
1. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center lines of alleys, streets, right-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
  2. Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
  3. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the GIS system.
  4. In un-subdivided property, the district boundary lines on the maps accompanying and made part of this Ordinance shall be determined by use of GIS system.
  5. Where a zoning district boundary is indicated as approximately following city limits the boundary shall be determined as such.
  6. Where a zoning district boundary is indicated as approximately following railroad lines, the boundary shall be construed to be midway between the main tracks.
  7. If, after all of the previously stated rules have been applied, uncertainty shall exist as to exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of zoning ordinances and amendments in the City as well as other relevant facts. The Board of Zoning Adjustment, upon motion, shall interpret and determine the location of said boundaries based on the above mentioned guidelines.

### SEC. 153.401.2 CLASSIFICATION OF DISTRICTS

This Ordinance classifies and regulates the use of land, buildings, and structures within the city limits of Tontitown, Arkansas as hereinafter set forth. For the purpose of promoting the health, safety, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of land by buildings, the size of

yards and open spaces, density of population and location of buildings. Zoning districts shall be designated as follows:

**A. Agricultural**

A-1, Agricultural

**B. Residential**

R-E, Residential Estate  
R-1, Single Family Residential  
R-2, Duplex and Patio Home Residential  
R-3, Medium Density Residential  
R-4, High Density Residential  
R-MH, Manufactured Home Residential  
R-ZL, Zero Lot Line

**C. Commercial**

C-1, Neighborhood Commercial  
C-2, General Commercial

**D. Industrial**

I-1, Light Industrial  
I-2, Heavy Industrial

**E. Planned Unit Development (PUD)**

**F. Planned Residential Development (PRD)**

**SEC. 153.401.3 GENERAL PROVISIONS**

- A. Building Separation.** Unless stipulated elsewhere, a minimum of 10 feet shall separate all detached buildings.
- B. Measuring Lot Width.** Lot width is measured at the building setback.
- C. Computing Density.** When computing gross density of a tract of land, any and all common open space may be used in said calculation.

**SEC. 153.401.4 TABLE OF PERMITTED USES**

- A. Location and Description.** The Table of Permitted Uses is located in Appendix A. Further clarification of each use appears in Article 153.201 – Definitions.
- B. Permitted Uses.** Where the letter “P” appears on the line of a permitted use and in the column of a district, the use is permitted in that district subject to the provisions of:
1. Article 153.501, Off-Street Parking, Loading and Landscaping; and
  2. Article 153.601, Use Regulations.
- C. Conditional Uses.** Where the letter “C” appears, this use is permitted subject to acquiring a conditional use permit as set forth in Art. 153.301.6 Conditional Uses.
- D. Prohibited Uses.** Where neither “P” nor “C” appears in a district column, the use is not permitted in the district.

- E. Uses Not Listed.** When a use is proposed that is not listed in the Table of Permitted Uses, the Building Official shall recommend the appropriate districts based on land uses that are similar in size, bulk, and traffic generation. If the applicant does not agree with this interpretation, he/she may appeal the interpretation to the Board of Zoning Adjustment. If the Building Official fails to make an interpretation for the use in question, then the application shall be handled as a proposed amendment to the Zoning Ordinance and shall be processed in accordance with Art. 153.301, Administration.

#### **SEC. 153.401.5 APPLICATION OF DISTRICT REGULATIONS**

- A.** The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.
- B.** No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- C.** No building or other structure shall hereafter be erected or altered:
1. to exceed the height or bulk;
  2. to accommodate or house a greater number of families;
  3. to occupy a greater percentage of lot area;
  4. to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this ordinance.
- D.** No part of a yard or other open spaces or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- E.** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
- F.** All territory which may hereafter be annexed to the City of Tontitown, Arkansas shall be considered to be in District R-E until the territory is rezoned as provided herein or unless provided for in the annexing ordinance.
- G. Prior to Annexation to the City.** On any parcel annexed into the city subsequent to the adoption of these regulations, and upon which building construction has proceeded to the point at which the foundation(s) has been completed construction may continue. If construction continues after the annexation, these regulations shall require no changes in the overall layout, plans, construction, or size of any building unless the Planning Commission determines that continued construction would pose a threat to the health, welfare, safety, or morals of the citizens of Tontitown. If construction is stopped for a period exceeding two (2) years, the Planning Commission may require, as a condition of renewing construction thereafter, that the building(s) meet all requirements for new construction.
- I. Height.** The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations.
1. **Measuring Height.** In measuring heights, a habitable attic shall be counted as a story unless the area of the attic at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment.

2. **Exceptions.** Chimneys, elevators, poles, spires, tanks, towers, (except for transmission towers/station) and other projections not used for human occupancy may extend above the height limit.

#### **J. Visibility.**

1. **All lots.** In any required yard or any required setback area, nothing permanent over three (3) feet shall be installed which materially impedes vision between vehicular or pedestrian traffic.
2. **Corner lots.** On any corner lot, nothing permanent over three (3) feet shall be installed within the sight triangle, as shown in the illustration below in section 153.801.6.

### **SEC. 153.401.6 A-1, AGRICULTURAL DISTRICT**

#### **A. General Description and Purpose**

The regulations for the A-1 Agricultural District are designed to preserve and protect prime agricultural lands and to protect undeveloped areas from intensive uses until a use pattern is approved

#### **B. Bulk and Area Regulations**

1. **Density.** One (1) dwelling unit per five (5) acres.
2. **Lot and Area Requirements.**
  - (a) *Min. Lot Area:* 217,800 sq. ft. (5 acres)
  - (b) *Min. Lot Width:* 100 ft.
  - (c) *Max. Lot Coverage:* 30%
  - (d) *Min. Street Frontage:* 100 ft.
  - (e) *Min. Lot Depth:* 100 ft.

#### **3. Minimum Setback Requirements. (ft.)**

Front	Side	Rear
30	30	30

#### **4. Height Requirements**

- (a) *Maximum:* 40 ft.
- (b) *Exceptions:* A building or structure may exceed the maximum height shown provided each of its front, side, and rear setbacks are increased an additional foot for each foot such building exceeds the maximum height.

### **SEC. 153.401.7 RESIDENTIAL DISTRICTS**

#### **A. General Description**

The target goal of the residential districts is to provide sound, safe, economical, and innovative housing solutions for all citizens of Tontitown. Specific goals of residential districts include:

1. provisions of adequate space at appropriate locations necessary to create an appropriate mix of housing alternatives for people of all lifestyles;
2. consideration to site selection and variety of choice;
3. prevention of congestion as much as possible by regulating population density, activity intensity and extent of building bulk in relation to area land use;
4. control of structure height to provide light and air access through windows; and
5. Promotion of desirable land use and development in order to protect district character and to conserve land and building value.

## **B. District Purposes**

### **1. R-E, Residential Estate**

The R-E District is an extremely low density residential district designed to provide for maximum privacy through the use of open spaces, permit the keeping of animals, specifically approved by the Planning Commission, promote scenic attraction, expand and promote residential alternatives and encourage the development of residential areas most protective of the environment.

### **2. R-1, Single Family Residential**

The R-1 District serves low density developments in which housing is generally of the highest value and where strict separation of land uses is desired. Since R-1 Districts are separated from all commercial and industrial activity, access to connecting traffic arteries is essential.

### **3. R-2, Duplex And Patio Home Residential**

The R-2 District encourages the basic land use restrictions as the R-1 District. It permits slightly higher population density than the R-1 District, with residential and related uses separated from commercial and industrial activity.

(a) Such a district shall encourage and maintain duplex and patio home development at appropriate locations.

(b) The R-2 District has a dual purpose. First, the district should provide areas for the development of two-family residential structures. Second, the district should facilitate conversion of one family residence to two-family use in established developed areas. The district may be located in developed areas or undeveloped areas of the City where an environment compatible with moderate density residential development can be established. Such a district can also be located in medium density areas where conversion may facilitate their continuation as a desirable area.

### **4. R-3, Medium Density Residential**

The R-3 District is established to provide suitable areas for medium density residential development. Such units would be located in areas where adequate city facilities existed prior to development or would be provided in conjunction with development, and where a suitable environment for medium density residential development would be available. Such districts could be used in suburban portions of the city as buffer or transitional zones between single-family and other uses not compatible with low density residential development.

### **5. R-4, High Density Residential**

The R-4 District is established in order to provide high-density residential development and conversion of existing residential structures. This area could exist in the older sections and newer developed areas of town. Such a district may be developed adjacent to, or in conjunction with neighborhood commercial or shopping center development. Adequate public utilities and services shall exist prior to or be provided in conjunction with development. Such a district may exist as a buffer zone between single family and non-compatible use districts. Within this district, buildings, structures or uses having commercial characteristics and not planned as a main part of the total development shall be excluded.

## 6. R-MH, Manufactured Home Residential

The R-MH District is established to permit and encourage the development of single family manufactured home subdivisions, manufactured home parks, or placement of manufactured homes on individual lots in a suitable environment.

## 7. R-ZL, Zero Lot Line Residential

The R-ZL District is a moderate density residential district designed to permit and encourage the development of a variety of dwelling types including “zero lot line” units suitable for a low cost per unit development. To be approved, an R-ZL district must be efficient in the use of land and utilities. It should be considered compatible with other residential use and may be used to create a transition from purely residential districts to medium and high-density residential zones.

## 8. R-O, Residential Office

The R-O District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities and compatible residential uses. It is further the intent of this district to establish a transition area where the continuation of residential activity is no longer practical between residential and nonresidential uses.

## C. Residential Bulk and Area Requirements

### 1. Density.

Zoning District	Maximum Density Permitted
R-E	1 dwelling unit per 2 acres
R-1	6 dwelling units per acre
R-2	9 dwelling units per acre
R-3	12 dwelling units per acre
R-4	24 dwelling units per acre
R-MH	6 dwelling units per acre
R-ZL	9 dwelling units per acre
R-O	6 dwelling units per acre

### 2. Lot and Area Requirements.

- (a) *Street Frontage.* Each lot in R-1, and R-2, zoning districts shall have a minimum street frontage equal to the minimum lot width required at the building line, except for lots fronting on cul-de-sac turnarounds and on curving street frontages, which must have no less than thirty-five (35) feet of street frontage with the two side lot lines intersecting the street diverging until they are separated by the minimum required lot width at the building line. Each lot in the remaining zoning districts shall have a minimum of thirty-five (35) feet of street frontage.
- (b) *Depth.* Each lot, not including the RC2 and zoning districts shall be a minimum of one hundred (100) feet in depth at its shallowest point with the depth measured at right angles or radial to the street right-of-way line.
- (c) *Corner lots:* Minimum width for corner lots shall be 75' at the building line. The minimum width for corner lots in a manufactured home subdivision shall be 60 ft. at the building line.

(d) *Zero lot line lots:* One side yard setback must be no less than twelve (12) feet, and the other side yard setback must be zero (0) feet. No openings shall be allowed in the wall abutting the zero lot line setbacks. If two dwellings about the same zero lot line, a fire wall, as called for by the Building Code is required

(e) *Standards:*

Residential Bulk and Area Standards						
District	Structure Type	Lot Area (sq. ft.)		Lot width (ft.)	Max. coverage	
					Interior Lot	Exterior /Corner lot
R-E	All	87,120 (2 acres)		200	10%	10%
R-1	All	43,560		120	40%	45%
R-2	All	21,780		100	50%	55%
R-3						
	All	9,600		80	40%	45%
R-M	Two-family	12,000		100	50%	55%
	All Others	10,000		100	50%	55%
R-MH	Manufactured home lots	10,000		100	30%	35%
R-ZL	Zero Lot Line	4,000		40	60%	65%

### 3. Minimum Setback Requirements

(a) *Garages:* The minimum front setback for front-loading garages shall be 30' from the front property line. The minimum front setback for side- or rear-loading garages shall be 20' from the front property line. The minimum garage setbacks apply to attached and detached garages. (*Ord. No. 2004-63, 3-23-04*).

(b) *Easements:* Where a utility easement extends beyond the required setback, the edge of the utility easement shall be the setback.

(c) *Standards (in feet):*

District	Structure Type	Front	Side		Rear
			Interior	Exterior	
R-E	All	30	30	30	30
R-1	All	20	7	20	25
R-2	All	20	7	20	25
R-3	All	20	10	20	25
R-4	All	20	10	20	25
R-MH	Manufactured home lots	20	10	20	25
	Manufactured home park	25	15	25	25
R-ZL	Zero Lot Line	20	12/0	20	25
R-0	Single-family	20	7	20	25
	Two-family	20	10	20	25
	Office with parking in front	50	10	50 parking; 20 no parking	25
	Office w/o parking in front	20	10	20	25

#### **4. Height Requirements** (Ord. No. 2006-33, 2-28-06)

*Standards:* The maximum height permitted in all residential districts is 40 feet.

(a) *Guidelines:* New infill structures should be constructed at a height that is compatible to the adjacent structures. If at all possible, the new dwelling should have a height within an acceptable percentage to the Planning Commission to ensure compatible massing, scale and to prevent the overshadowing of the adjacent structure(s).

(b) *Exceptions:* The principal use building or structure may exceed the maximum allowed height when an additional one foot of interior side yard setback is provided for each two (2) feet of additional height. This exception does not apply to zero lot line buildings.

**D. Residential Development Criteria.** Unless otherwise specifically provided in this section, the following development criteria shall apply.

**1. Replacement of Existing Single-Wide Manufactured Homes in Residential Districts.** The replacement of existing

2. single-wide manufactured homes in residential districts may be allowed subject to the granting of a conditional use permit if the following requirements are met:

(a) All notification and other requirements for submission of a conditional use permit request must be met.

(b) In the case of a manufactured home that is destroyed or removed from the lot prior to submission of the conditional use request, the submission must take place within thirty (30) days of destruction or removal of the manufactured home.

(c) All other requirements of this ordinance regarding placement of a manufactured home in a manufactured home subdivision, including those noted in the definition of manufactured home, must be met. These include, but are not limited to, placement, setbacks, foundation, enclosure and parking.

(d) All requirements of the zoning district in which the manufactured home is to be replaced must be met. If a conflict exists between the requirements for a manufactured home subdivision and the requirements of the zoning district in which the manufactured home is to be replaced, the stricter requirements shall apply.

**3. Modular Homes.** Modular homes shall meet the current adopted building codes that apply to site built homes. Modular homes shall meet all other regulations for the zoning district in which it is located.

#### **SEC. 153.401.8 COMMERCIAL DISTRICTS**

**A. General Description.** Regulations for commercial districts are designed to encourage stable and efficient areas to meet the needs for commercial goods and services of both the city's neighborhoods and its trade area. The Planning Commission will consider, in the administration of commercial districts, the objective of discouraging urban sprawl. The districts are designed to:

1. minimize any potential incompatibilities between commercial developments and other types of land use;

2. Provide opportunities for investment as new residential areas and thoroughfares are built, they are particularly designed to encourage the use of undeveloped lands in existing commercial areas;

3. Provide sufficient space, at appropriate locations in close proximity to established residential areas for retail and service trade. Such commercial establishments should provide shopping needs of nearby residential areas; and,
4. Provide sufficient and appropriate space to meet anticipated future needs for planned commercial developments in central shopping districts, regional, community and neighborhood shopping centers.

Provision of off-street parking space in conjunction with commercial area development shall be fostered through commercial districts establishment. Establishments will be encouraged through the districts to congregate in planned developments to the consumer and merchant's advantage.

## B. District Purposes

### 1. C-1, Neighborhood Commercial

The C-1 District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas while maintaining a character in harmony with residential development. To this end, development in the C-1 District should harmonize in terms of form, bulk, height, materials, architecture, and overall design with surrounding residential areas. Signage and lighting should be subdued while landscaping and open space should be maximized. Parking areas should be as inconspicuous as possible as should loading and trash collection areas.

### 2. C-2, General Commercial

The C-2 District represents the least restrictive of the commercial districts and is designed to serve the planning area and highway travelers. This district shall congregate on local arterial streets in such a manner as to minimize disruptions of through traffic and shall be interspersed within the corporate boundaries.

## C. Commercial Bulk and Area Regulations

### 1. Lot and Area Requirements

District	Min. Lot Area (sq. ft.)	Min. Lot Width	Max. Lot Coverage
C-1	7,000	70 ft.	50%
C-2	7,000	70 ft.	60%

### 2. Minimum Setback Requirements

(a) *Standards:* See table below.

Minimum Setback Requirements (ft.)						
District	Front		Side		Rear	
	With Parking In Front	Without Parking In Front	Adjacent to Non-residential District	Adjacent to Residential District	Adjacent to Non-Residential District	Adjacent to Residential District
C-1	50	20	7	15	20	25
C-2	50	20	7	30	20	30

#### 4. Height Requirements

(b) *Standards.*

(c) *Exceptions:* Any structure exceeding the listed maximum height shall be set back an additional one (1) foot for each foot in excess of the maximum height allowed for that district.

District	Maximum Height (ft.)
C-1	40
C-2	60

#### D. Commercial Development Criteria.

Unless otherwise specifically provided in this section, the following development criteria shall apply.

##### 1. All Commercial Districts

(a) *Lighting.* Any lighting shall be placed so as to reflect away from adjacent residential districts.

(b) *Nuisances.* No excessive or unusual noise, odor or vibration shall be emitted so that it constitutes a nuisance which substantially exceeds the general level of noise, odor or vibration emitted by uses adjacent to or immediately surrounding the site. Such comparison shall be made at the boundary of the site.

(c) *Trash receptacles.* All trash receptacles and pickup shall be oriented away from the street side of the property and adequately screened by a sight-proof fence.

(d) *Vehicle display and storage.* All of the lot used for the storage and display of vehicles or merchandise shall be dust-proof and paved with a sealed surface which shall be maintained in such a manner that dust shall not be produced. All driveways used for vehicle ingress and egress shall be paved in accordance with the requirements of Article 153.501, Off-street Parking and Loading.

##### 2. Open Display Developments

(a) *Landscaping.* Yards without buildings or merchandise shall be landscaped with grass or shrubs and shall be maintained in an orderly manner.

(b) *Traffic surfaces.* All traffic ways and driveways used for entry and exit shall be paved with a sealed surface and maintained in such a manner that dust shall not be produced.

(c) *Assembly.* A completely enclosed building shall be provided for service and assembly of vehicle and equipment. Such activity shall be considered an incidental part of the retail operation.

(d) *Outside storage.* No material or article stored or offered for sale shall be stored or displayed outside area buildings unless it is screened by a permanent screen such as a fence or wall. This is to ensure that such display cannot be seen from an adjoining lot. Screening and display criteria shall include:

i. Minimum height of screening fence or wall shall be six (6) feet.

ii. Automobile, truck, tractor, mobile home, boat or motorcycle sales area shall not be required to screen fully assembled merchandise, ready for sale.

- iii. No permanent open display shall be permitted on sidewalks or public rights-of-way.
- iv. Storage space for automobile service stations when storing rental trucks or trailers must not exceed four thousand (4,000) square feet and must be paved and screening requirements met.
- (e) *Open Display Setback*. There shall be a setback of twenty (20) feet for open display of any kind.

## SEC. 153.401.9 INDUSTRIAL DISTRICTS

### A. General Description

The Industrial District Zones are to provide for development of light to medium industrial uses and related facilities. The regulations for the Industrial Districts are designed to:

1. make available a range of suitable sites for all types of manufacturing and related activities;
2. protect residences by separating them from manufacturing activities and by limiting the use of each space for new residential development;
3. provide restricted areas for those industries emitting objectionable noises, odors, or which involve danger of fire or explosives;
4. to protect industrial activities and related developments against congestion, as appropriate for each area, by limiting building bulk in relation to surrounding land and other industries and providing off-street parking and loading with each development;
5. to promote desirable land use and building development direction and to provide stability for industry and related development in an effort to strengthen the City's economic base; and,
6. to protect district character and usage and to conserve land and building value.

### B. District Purposes

1. **I-1, Light Industrial District** The I-1 District is designed primarily to provide for general offices, light manufacturing, assembly and accessory warehousing for products which present low risk of objectionable environmental and aesthetically offensive influences, have low traffic volumes and provide no health or safety hazards.
2. **I-2, Heavy Industrial District** The I-2 District is designed primarily to minimize the high risk of deleterious, hazardous and environmentally objectionable uses of general manufacturing processes and storage facilities as well as provide for warehousing, heavy equipment repair and transportation facilities.

### C. Industrial Bulk and Area Regulations.

#### 1. Lot and Area Requirements.

District	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max. Lot Coverage	Min. Street Frontage (ft.)	Min. Lot Depth (ft.)
I-1	20,000	100	60%	50	100
I-2	20,000	100	50%	50	100

#### 2. Minimum Setback Requirements.

(a) *Standards (in feet):*

District	Front		Side			Rear		
	With Parking in Front	Without Parking in Front	Adjacent to ROW	Adjacent to Non-Residential District	Adjacent to Residential District	Adjacent to ROW	Adjacent to Non-Residential District	Adjacent to Residential District
I-1	75	30	30	50	75	30	50	75
I-2	75	50	50	50	75	50	50	75

- (b) *Railroads*. Where property abuts a railroad and loading and unloading facilities are utilized, or second siding or spurs, the loading and unloading portions of the structures may be built up to railroad property line.

### 3. Height Requirements.

- (a) *Standards*.

District	Max. Height (ft.)
I-1	60
I-2	60

- (b) *Exceptions*: A building or structure may exceed the maximum heights shown provided each of its front, side, and rear yards are increased an additional foot for each foot such building exceeds the maximum height.

## D. Industrial Development Criteria. Unless otherwise specifically provided in this section, the following development criteria shall apply:

### 1. All Industrial Districts

- (a) *Nuisance mitigation*. Any lighting visible from outside the site shall be designed to reflect away from adjacent residential districts. No noise, odor or vibration shall be emitted so that it constitutes a nuisance which substantially exceeds the general level of noise, odor or vibration emitted by uses adjacent to or immediately surrounding the site. Such comparisons shall be made at the boundaries of the site.
- (b) *Trash receptacles*. Outdoor storage of trash receptacles shall be at the sides or rear of the site and shall be totally encircled or screened by a sight-proof fence, planting or other suitable visual barrier.
- (c) *Screening*. A permanent opaque screening fence or wall shall be constructed along any side or rear property line which abuts property zoned for residential purposes. The height of this screen or wall shall be not less than eight (8) feet and shall be constructed of wood, masonry or other durable opaque material, and finished in a manner appropriate to the appearance and use of the property.
- (d) *Front yards*. No loading or storage of material shall be permitted in the required front yard.

2. **I-1 Industrial District**. Every use or any part thereof that is not conducted within a building completely enclosed on all sides shall be screened by a permanent opaque screening fence or

wall so that it cannot be seen from an adjoining lot. The following screening and display criteria shall apply to uses located in the I-1, Industrial District:

- (a) *Screening.* The height of any opaque screening fence or wall shall not be less than eight (8) feet.
- (b) *Vehicle storage areas.* Automobile, bus, truck, tractor, mobile home, boat or motorcycle, and wheeled and/or tracked industrial vehicle storage areas are not required to screen fully assembled merchandise which is ready for sale.

## **SEC. 153.401.10 PLANNED UNIT DEVELOPMENT (PUD)**

*(Ord. No. 2005-51, 02-08-05)*

### **A. General Description**

1. **Purpose.** The purpose of the PUD District is to establish a mechanism for a person to propose a commercial, industrial or residential mixed use development that is innovative but which does not strictly comply with the provisions of the zone in which the property is located and cannot be achieved through traditional zoning.
2. **Intent.** The intent of the PUD District is to promote high quality developments while allowing greater flexibility in the design of such developments. The PUD should produce:
  - (a) a maximum choice in the types of environment and living units available to the public;
  - (b) common open space and recreation areas;
  - (c) a pattern of development which preserves natural features and prevents soil erosion;
  - (d) a creative approach to the use of land and related physical development;
  - (e) an efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs;
  - (f) internally located commercial uses that serve surrounding residential areas; and,
  - (g) an environment of stable character in harmony with the surrounding development.
3. **Minimum District Area.** The minimum lot area required for property proposed for a Planned Unit Development District shall be 10 acres.
4. **Zoning and Master Site Plan.** The PUD is a combination of zoning designation and master site plan. A detailed site plan is required for approval. Once approved, the site plan becomes a zoning district by city ordinance in the same manner as any other zoning parcel and the applicant may proceed with the platting or large scale development process. Development must follow the site plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged and flexibility is allowed, the PUD may not be used simply as a method of avoiding zoning regulations.

- B. **Permitted Uses.** The PUD submittal shall include a listing of the proposed land uses and the amount of land devoted to each. This list will constitute part of the zoning component of the PUD. No other land uses will be allowed unless the PUD is revised through a rezoning process.

**C. Modification of Development Standards.** The applicant shall provide a written description of the proposed zoning and development standards. This information will become part of the zoning ordinance of the PUD district.

**1. Modifications permitted.** The PUD district may allow the following zoning and development standards to be modified:

- (a) density;
- (b) building setbacks;
- (c) height of building or structure;
- (d) lot size;
- (e) lot width;
- (f) lot depth;
- (g) landscaping;
- (h) required off-street parking spaces in instances of mixed residential/commercial uses; and,
- (i) street widths.

**2. Modifications prohibited.** The PUD district shall not allow the following development standards to be modified:

- (a) sign requirements;
- (b) grading and drainage;
- (c) access management;
- (d) outdoor lighting;
- (e) screening;
- (f) residential and commercial street light standards; and,
- (g) flood damage protection.

#### **D. PUD Development Criteria**

**1. Common Open Space Requirements.** Common useable open space constitutes an essential ingredient in a Planned Unit Development and is one of the most basic and important design elements.

(a) **Standards.** The common open space requirements are:

- i. *Minimum area.* A minimum of 20% of the total project area, exclusive of public right-of-way and parking lots, shall be devoted to common open space.
- ii. *Equitable distribution.* Open space should be distributed more or less equitably throughout the PUD District in relationship to the dwelling units and other use areas that are intended to be served by the common open space.
- iii. *Preservation.* Adequate guarantees must be provided that the common open space areas as contained in the plan for the PUD District are preserved and maintained for those purposes only. A Property Owners' Association shall be required if other arrangements satisfactory to the Planning Commission have not been made for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the Articles of Incorporation and Bylaws of the Property Owners' Association shall be reviewed and approved by the Planning Commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas.
- iv. *Accessible.* Common useable open space shall be open to tenants and customers within the PUD. Access by the general public is desired.

(b) **Common Open Space determination.** The required common open space may include:

- i. Wetlands and water bodies, including the normal water surface area of unfenced retention ponds up to 50% of the required open space area;
  - ii. Active detention ponds that include recreational equipment/facilities.
  - iii. Vegetated / landscaped area, excluding required parking lot landscaping requirements;
  - iv. Pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
  - v. Public plazas and hard surfaced recreation areas;
  - vi. Public pools, tennis courts, basketball courts, baseball fields, soccer fields, or similar outdoor recreation facilities that are open to the residents and users of the PUD.
- 2. Parking and Off-Street Loading.** All uses established within a Planned Unit Development District shall comply with the off-street parking and loading requirements as established in Article 153.501. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located or upon adjacent property which is under the control of a Property Owners' Association to which said lot is an automatic participant. In no case, however, shall the cumulative requirements for all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the City.
- 3. Perimeter Requirements.** In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD District or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the Planning Commission and City Council shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.
- 4. Density.** The site plan shall clearly depict the proposed density by land use category. For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-way, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and maintained by a Property Owners' Association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one (1) Property Owners' Association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.
- 5. Structural design standards.** The PUD shall meet the following structural design standards.
- (a) Residential buildings should have their main entrances oriented toward the adjoining street.
  - (b) All structures shall have a common architectural theme.
  - (c) Avoid unbroken building facades of more than 100'.
  - (d) Provide human scale features, especially at street level.
  - (e) Avoid unarticulated and monotonous building facades and window placement.
  - (f) Provide a variety of building heights and varied roofline articulation.
  - (g) Aluminum, vinyl or fiberglass siding or roofing materials on the facades or sides of the building shall not be visible from a public right-of-way.
  - (h) Rear- and side-loading residential garages are encouraged and shall be setback a minimum of 20 feet. Front-loading garages shall be recessed a minimum of 10 feet from the front elevation of the house and shall be setback a minimum of 30' from the front property line.

#### **SEC. 153.401.13 Planned Residential Development (PRD)**

## A. General Description

1. **Purpose.** This section establishes standards and criteria for Planned Residential Developments (PRD). The primary purpose of a PRD is to enhance the design of a residential development by allowing for flexibility and variation from the established site requirements and development standards of the Zoning and Subdivision Codes. The PRD is a mechanism by which the City may allow for variation in the design and arrangement of structures as well as provide for the coordination of project characteristics with features of a particular site in a manner that is consistent with the public health, safety, and welfare of the community. A PRD allows for innovations and special features in site development, including the locations and type of structures, the conservation of natural features, the conservation of energy, the efficient use of open space, and allowances for housing serving varying price points.
2. **Applicability.** The primary use of a PRD shall be residential. Uses that are accessory to the primary residential use are also allowed, as are open space and recreation uses as permitted by this zone.
3. **Intent.** The intent of the PRD district is to encourage the use of Smart Growth principals and Traditional Neighborhood Design, to provide a variety of housing types and densities available to the general public, and to promote high quality residential developments while allowing greater flexibility in the design of such developments. The PRD shall produce:
  - (a) A maximum choice in the types of environment and living units available to the public;
  - (b) A variety of housing types that effectively meets the varying price points of the community;
  - (c) Energy-efficient site design or building features;
  - (d) A minimum of fifteen percent (15%) common, useable open space and recreation areas;
  - (e) A pattern of development which preserves natural features and prevents soil erosion;
  - (f) A creative approach to the use of land and related physical development;
  - (g) Efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs;
  - (h) Environment of stable character in harmony with the surrounding development;
  - (i) Efficient use of infrastructure, and
  - (j) High quality architectural design, placement, relationship and orientation of structures.
4. **Smart Growth and Traditional Neighborhood Design.** The PRD district shall incorporate Smart Growth principles, including Traditional Neighborhood Design elements into the development by such means as:
  - (a) Offer a range of housing opportunities and choices;
  - (b) Foster walkable, “close-knit” neighborhoods;
  - (c) Promote distinctive, attractive communities with a strong “sense of place”;
  - (d) Preserve open space, farmland, natural beauty, and critical environmental areas;
  - (e) Strengthen and encourage growth in existing communities;

- (f) Provide an interconnected network of narrow streets that are safe and pleasant for pedestrians and which provide a variety of routes for local traffic; and
  - (g) Provide high quality public spaces such as greenbelts, parks, plazas, squares, courtyards, and streets that are an organizing feature and gathering place for the neighborhood.
5. **Minimum District Area.** The minimum lot area required for property proposed for a PRD shall be three (3) acres.
6. **Zoning, Master Site Plan, and Architectural Elevation Renderings.** A PRD is a combination of zoning designation and master site plan, including architectural elevation renderings. A detailed master site plan and architectural elevation renderings are required for approval and must be submitted at the time of application submittal. Once approved, the site plan becomes a zoning district by City Ordinance in the same manner as any other zoning parcel and the application may proceed with the preliminary platting or large scale development process. Development must follow the site plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged and flexibility is Allowed, the PRD may not be used simply as a method of avoiding zoning regulations.

**The following information shall be provided on the Master Site Plan:**

- (a) Residential housing types;
- (b) Building setbacks;
- (c) Location of the *central* gathering area(s) such as a public plaza or courtyard;
- (d) Open space including, but not limited to parks, trails, and other recreational facilities (central gathering area(s) are a separate requirement, but may be included as open space);
- (e) Heights of all buildings and other structures;
- (f) Lot size, width, and depth;
- (g) All parking spaces including off-street and on-street;
- (h) Locations of all structures;
- (i) Housing densities by type, expressed in units per acre;
- (j) Traffic circulation pattern;
- (k) Street widths and sidewalks; and
- (l) Location of proposed signage.

**Architectural Elevation Renderings**

Architectural elevation renderings must be provided at the time of application submittal as part of the Master Site Plan. The elevations may be digitally or hand drawn and shall include the following:

- i. **Residential Dwellings**
    - 1. Front, rear, and side elevations for each type of residential structure and architectural design.
    - 2. Exterior/façade building materials list.
  - ii. **Public Gathering Places**
    - 1. Ariel view of all public gathering places depicted on the Master Site Plan.
    - 2. Building materials list.
7. **Phased Development.** If development is to be completed in phases, the development plan shall coordinate improvement of the open space, the construction of buildings, structures, and improvements in such open space, and the construction of dwelling units in order that each development stage achieves a proportionate share of the total open space and environmental quality of the total PRD.

- B. Permitted Uses.** The PRD submittal shall include a listing of the proposed land uses and the amount of land devoted to each type of development. This list will constitute part of the zoning component of the PRD. No other land uses will be allowed unless the PRD is revised through a rezoning process.
- C. Modification of Development Standards.** The applicant shall provide a written description of the proposed zoning and development standards. This information will become part of the Zoning Ordinance of the PRD district.

**1. Modifications Permitted.** The PRD district master site plan may allow the following zoning and development standards to be modified:

- (a) Density;
- (b) Building setbacks;
- (c) Height of buildings or structures;
- (d) Lot size, depth, and width;
- (e) Required off-street parking spaces, and
- (f) Street widths.

**2. Modifications Prohibited.** The PRD district shall not allow the following zoning and development standards to be modified:

- (a) Sign requirements;
- (b) Grading and drainage;
- (c) Access management;
- (d) Outdoor lighting;
- (e) Landscaping and screening;
- (f) Residential light standards, and
- (g) Flood damage protection

**D. PRD Development Criteria.**

**1. Common Open Space and Recreation Requirements.** In addition to adhering to Article 1400 of the Subdivision Code, check reference common usable open space constitutes an essential ingredient in a PRD and is one of the most basic and important design elements.

(a) **Standards.** The common useable open space requirements are:

- i. *Minimum Area.* A minimum area of fifteen percent (15%) of the total project area, exclusive of public right-of-way and parking lots, shall be devoted to common usable open space.
- ii. *Equitable Distribution.* Open space shall be distributed more or less equitably throughout the PRD district in relationship to the dwelling units or other use areas that are intended to be served by the common open space.
- iii. *Preservation.* Adequate guarantees must be provided that the common useable open space area as contained in the plan for the PRD district are preserved and maintained for those purposes only. A Property Owner's Association (POA) shall be required if other arrangements satisfactory to the Planning Commission have not been made for improving, operating, and maintaining all such common open space area. At the time the final plat and plan is submitted, the Articles of Incorporation and Bylaws of the POA shall be reviewed and approved by City staff. Additionally, the restrictive covenants which run with the land must be filed with Washington County, submitted to the Planning Office and include similar provisions to preserve all open space areas.
- iv. *Accessibility.* Common open space shall be open to tenants and customers within the PRD, although access by the general public is encouraged and desired.

(b) **Open Space Determination.** The required common open space may include:

- i. Wetlands and water bodies;
- ii. Lawns – five percent (5%) maximum of total percentage required;
- iii. Pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
- iv. Central gathering spaces such as plazas, parks, or courtyards;
- v. Vegetated / landscape areas, excluding required parking lot landscaping requirements;
- vi. Recreational areas / facilities such as public pools, tennis courts, basketball courts, baseball fields, soccer fields, or similar outdoor recreation facilities that is open to the residents and users of the PRD.

2. **Parking and Off-Street Loading.** All uses established within a PRD shall comply with the off-street parking and loading requirements as established in Article 153.501 of the Zoning Code and the following additional requirements:

- (a) Two (2) off-street parking spaces must be provided for each residential unit, such as a driveway, carport, garage, etc.
- (b) Guest parking spaces may be uncovered and shall be so located as to be accessible to visitors and guests.
- (c) The required parking spaces, garages, or carports, or any portions thereof, may be grouped when it is determined by the Planning Commission that such grouping and the locations thereof will be accessible and useful in connection with the proposed dwelling unit in the development.

3. **Perimeter Requirements.** In order to ensure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, lot coverage, and other elements necessary for all perimeter lots that are adjacent to the boundary of the PRD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the Planning Commission and City Council shall consider the nature, extent, and character of the adjacent development and shall take into considerations the types of area regulations applicable to adjacent properties.

4. **Density.** The site plan shall clearly depict the proposed density, expressed in units per acre for each residential type included within the PRD.

5. **Authorization of Housing Types.** A PRD may authorize a variety of housing types including, but not limited to:

- (a) Detached, single-family;
- (b) Common wall dwellings including: multi-family, condominiums, duplex/ patio home;
- (c) Townhouses or row-houses (including those on individual lots to be sold in fee and those sharing common lots), and
- (d) Zero lot line homes.

6. **Structural Design Standards.** The PRD shall meet the following structural design standards:

- (a) Buildings shall be sensitive to the natural environmental conditions and should be oriented around a public gathering space such as a plaza, park, or courtyard, or respond in design to a prominent feature, such as a corner location, or other manmade or natural feature;.
- (b) Buildings and site design shall provide inviting entry orientation;
- (c) Main entrances shall be oriented toward the adjoining street;
- (d) All structures shall have a common architectural theme;
- (e) Human scale features shall be provided;
- (f) Provide a variety of building height and varied roofline articulation;

- (g) Aluminum, vinyl, or fiberglass siding materials on the facades or sides of the building shall not constitute over fifty percent (50%) of the structure; soffit and fascia shall not be included within this 50% calculation; and,
- (h) Rear and side loading garages are encouraged and shall be setback a minimum of thirty feet (30') for a rear loading garage and twenty feet (20') for a side loading garage. Front loading garages shall be recessed a minimum of ten feet (10') from the front elevation of the house and shall be setback a minimum of thirty feet (30') from the property line.

# ARTICLE 153.501

## OFF-STREET PARKING AND LOADING

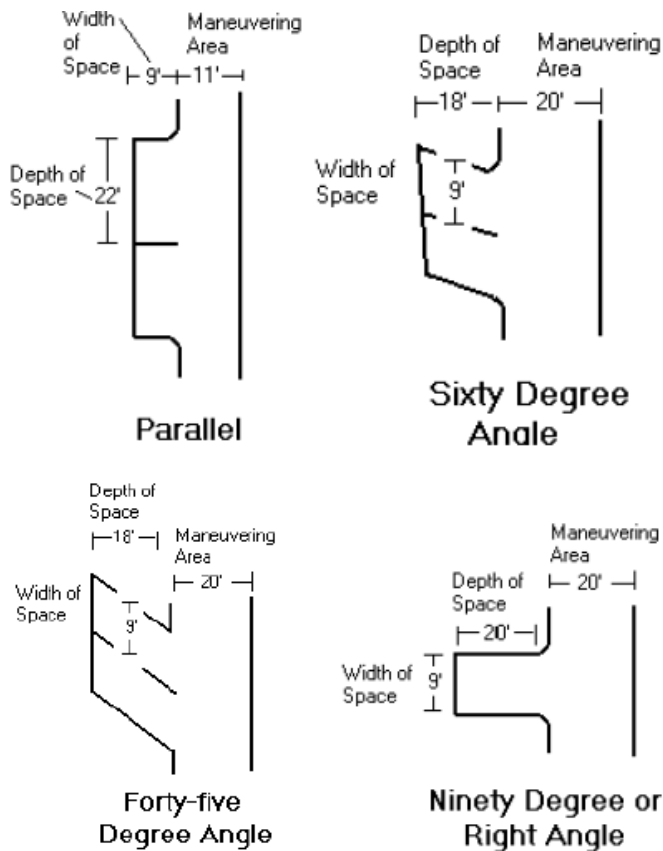
### SEC. 153.501.1 APPLICABILITY

- A. **Zoning Districts.** These requirements for adequate off-street parking, and loading shall be provided in all zoning districts. Such parking and loading shall be provided off the street easement for each use of land within the City and as demand is created for each use.
- B. **New construction, expansion, new use.** With construction or expansion in capacity of a building or structure or if another use is established on the lot, off-street parking must be provided in accordance with Article 153.501 of the Zoning Ordinance.
- C. **Existing spaces.** Parking spaces used in connection with an existing or continuing use or building on the effective date of this ordinance, up to the number required by this ordinance shall be continued and may not be counted as serving a new structure or addition.

### SEC. 153.501.2 PARKING DIMENSIONS

- A. **Standard parking space size.** The size of an off-street parking space for one vehicle shall be rectangular with dimensions of not less than nine (9) feet by eighteen (18) feet. Such measurement is exclusive of access drives or aisles.
- B. **Access drives width.** If the off-street parking space does not abut on a street, alley or easement of access, there shall be provided an access drive of at least ten (10) feet in width in the case of a dwelling and at least fifteen (15) feet in width in all other cases leading from the street to the parking.
- C. **Standards.** Where different parking angles are utilized for off-street parking, the following widths, depths and maneuvering areas shall be followed:

Parking Dimensions				
	Width (ft.)	Depth (ft.)	Maneuvering Area (ft.)	
			One- way	Two- way
Parallel	9	22	11	22
60° Angle	9	18	20	24
45° Angle	9	18	20	24
90° Angle or Right Angle	9	18	20	24



### SEC. 153.501.3 LOCATION OF OFF-STREET PARKING

- A. Maximum Distance.** Off-street parking shall be located within two hundred (200) feet of the structure to be served, and shall have direct access to a street or alley. Distance to any parking area for the purposes of this ordinance shall be measured between the nearest point of the off-street parking space and the nearest point of the building or facility to be served by the parking. No more than 50% of parking requirements can be met off-site.
- B. Satellite Lots.** If detached parking facilities or satellite parking lots are to be provided, such lots must be located on property zoned to allow for parking.

### SEC. 153.501.4 OWNERSHIP

The ownership of land upon which off-street parking is provided shall be the same as the ownership of land on which the principal use is located in districts for multi-family housing, rooming houses, dormitories, fraternities, and sororities where the sponsoring church or institution of higher learning has consented by written agreement to the use of its excess off-street parking for said purpose. A conditional use permit is required for the parking on lot(s) not of the same ownership to count toward fulfillment of the parking requirements.

### SEC. 153.501.5 ACCESSIBILITY

- A. ADA Requirements.** Accessibility for persons with disabilities in parking lots and building approaches shall be as required by the current ADA and as may from time to time be amended.
- B. Accessible spaces required.** The following table shall be used to determine the minimum number of accessible parking spaces to be provided for persons with disabilities.

Accessible Spaces Required	
Total Parking Spaces	Minimum Number of Accessible Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
153.101-150	5
151-200	6
153.201-300	7
153.301-400	8
153.401-500	9
153.501-1000	2% of all spaces
Over 1,000	20 spaces plus 1 space for each 100 spaces over 1,000

#### SEC. 153.501.6 NUMBER OF OFF-STREET PARKING SPACES REQUIRED

- A. Floor and Lot Area Defined.** For the purposes of applying requirements for off-street parking, floor area shall be defined as net floor area with the outside dimensions of a building, excluding halls, lobbies, and stairways, etc. The definition shall not include floor space within the building reserved for parking or loading of vehicles, and basement space or separate space used only for building maintenance and utilities.
- B. Uses Not Listed.** For all uses not covered in the standards below, the Planning Commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking then determined shall be the off-street parking requirement for the permitted use.
- C. Waivers.** The Planning Commission may grant waivers on the parking standards of this section.

#### 1.

Number of Parking Spaces Required	
Land Use	Parking ratio
<b>RESIDENTIAL</b>	
Single-Family Dwelling	2 spaces per dwelling unit
Patio Home Dwelling	2 spaces per dwelling unit
Two-Family Dwelling, Duplex	2 spaces per dwelling unit
Multi-Family Dwelling	3 spaces for each two dwelling units
Multi-Family Dwelling, Downtown Redevelopment District	1 space per dwelling unit
Hotels and Motels	1 space is required per guest room. For developments larger than twenty (20) rooms, eleven parking spaces must be provided for each ten rooms or fraction thereof for employees and non-guest users patronizing meeting rooms, and other facilities, but not including restaurants.
Manufactured Home Subdivision	2 spaces per manufactured home
Bed and Breakfast	1 space per sleeping/rental unit plus 1 space for the owner
<b>OFFICE AND INSTITUTIONAL USES</b>	
Hospitals, Sanitariums, Convalescent Homes (and similar uses or establishments)	1 space per bed
Medical Clinics	1 space per 300 sq. ft. of net floor space
Auditoriums, Arenas, Theatres (and similar places of public assembly)	1 space for each four (4) seats
Church Sanctuary	1 parking space for each four (4) seats based on maximum

	seating capacity in the principal assembly room; provided, however, that churches may establish joint parking facilities for not to exceed fifty percent (50%) of the required spaces, with businesses, institutions and agencies that do not have a time conflict in parking demand.
Lodge halls, Exhibition halls, Clubs (and similar places of public assembly)	1 space per 200 sq. ft. of net floor area
Fire Stations	1 space per 400 sq. ft. of net floor area ( <i>Ord. No. 2004-63, 3-23-04</i> )
Schools and Institutions	
Nursery, Kindergarten and Day-Care Centers	1 space per 500 sq. ft. of net floor area and one (1) space per employee. Loading and unloading spaces shall be required at a rate of one (1) for each ten (10) children accommodated
Elementary (grades 1-6)	1 space per classroom. Stacking space for drop-off and pickup shall be required on the site.
Junior High School (grades 7-9)	4 spaces per classroom, stacking spaces for buses and automobiles shall be required on-site
Senior High School (grades 10-12)	On-site parking spaces shall be provided based on total school enrollment of 1 space for every five (5) full-time students plus 1.5 spaces per classroom.
College, University, Business College or Trade School	1 space for each 300 sq. ft. of net floor area, or 1 space per four (4) students, whichever is greater
Business and Professional Office (and similar use or establishment)	<p>1 space per 300 sq. ft. of net floor area. For structures larger than ten thousand (10,000) square feet, the above parking requirement shall be provided and the following percentage shall be taken of the remaining net floor area:</p> <p>10,001-20,000 sq. ft. – 95% of parking requirement  20,001-30,000 sq. ft. – 90% of parking requirement  30,001-40,000 sq. ft. – 85% of parking requirement  40,000 sq. ft. and up - 80% of parking requirement</p>

<b>COMMERCIAL USES</b>	
General Business and Retail Sales (except as otherwise provided herein)	1 space per two hundred fifty (250) square feet of net floor area up to ten thousand (10,000) square feet, the above parking requirement shall be provided and the following percentage shall be taken of the remaining net floor area:  10,001-20,000 sq. ft. – 95% of parking requirement 20,001-30,000 sq. ft. – 90% of parking requirement 30,001-40,000 sq. ft. – 85% of parking requirement 40,000 sq. ft. and up – 80% of parking requirement
Bowling Alleys	6 spaces for each lane
Restaurants (and similar establishments serving food and beverages)	1 space per each four (4) occupants at the maximum permitted occupancy allowed under building code and 1 space per employee based on the largest shift.
Drive-Through Commercial Facilities	In addition to the other parking space requirements, holding or stacking spaces for each service window. Each stacking space shall be no less than ten (10) feet wide by twenty (20) feet long.
Food Store, Supermarkets and Convenience Type Grocery Stores	1 space for each 200 sq. ft. of net building area; or use the reduction permitted under General Business and Retail Sales.
Personal Service Establishments (Barber, Beauty Shops and similar uses)	1 space per each employee plus 1 space per each station
Automotive Services (service stations, garages, automobile washing facilities and similar uses)	5 spaces plus 1 space for each 200 sq. ft. of net building area.
<b>INDUSTRIAL USE</b>	
Manufacturing, Processing and Wholesaling (and similar uses or establishments)	1 space per 600 sq. ft. of net floor area
Warehouse and Storage	5 spaces plus 1 space per 2,000 sq. ft. of net floor area up to 50,000 sq. ft.; then, in addition to the above requirement, 1 space per 10,000 sq. ft. above 50,000 sq. ft. or portion thereof.

#### **SEC. 153.501.7 SURFACING OF PARKING LOTS**

Any off-street parking area shall be paved with a sealed surface pavement and maintained to prevent dust resulting from continued use. The parking area should be arranged as efficiently as possible, be so graded and drained as to dispose of all surface water accumulated in the area, and shall be so arranged and marked as to provide for orderly and safe parking and storage of vehicles.

#### **SEC. 153.501.8 OFF-STREET PARKING LOTS IN RESIDENTIAL DISTRICTS**

Whenever off-street parking lots for more than five (5) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

- A. Landscaping.** All yards shall be landscaped with grass, shrubs or evergreen ground cover and maintained in good condition the year round.
- B. Paving.** All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.
- C. Lighting.** The intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses.
- D. Signage.** No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent incandescent, fluorescent or gas lighting of signs shall be permitted.

## SEC. 153.501.9 JOINT PARKING FACILITIES

Whenever two (2) or more uses are located together in a common building, shopping center, or other integrated building complex, the parking requirements may be complied with by providing a permanent parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. Total number of spaces provided shall not be less than the sum of the individual requirements.

## SEC. 153.501.10 OFF-STREET LOADING

In addition to all off-street parking requirements, off-street loading requirements shall be in effect on the same premises with every building, structure, or part thereof hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, laundry, dry cleaning, or other uses involving the receipt or distribution by vehicles of materials or merchandise. There shall be provided and maintained adequate space for standing, loading and unloading to avoid undue interference with public use of the street or alley.

- A. Size of Off-Street Loading Spaces.** Each loading space shall not be less than ten (10) feet in width, thirty-five (35) feet in length, and fourteen (14) feet in height. Where the off-street loading space does not abut on a street, alley or easement of access, there shall be provided an access drive of at least ten (10) feet in width leading from the street to the loading area. Where the off-street loading space faces a public street, the loading space shall be 70 feet in length.
- B. Location.** Such loading space may occupy all or any part of any required setback, but such space may not be located closer than twenty-five (25) feet to any residential district unless wholly within a completely enclosed building or unless enclosed on all sides abutting the residential district by a wall or said fence at least eight (8) feet in height.

### C. Number of Off-Street Loading Spaces Required

- 1. One Loading Space Required.** For every building or structure hereafter constructed in any district for nonresidential purposes, or where material or merchandise is received or distributed by vehicles, an off-street loading space shall be provided and maintained on the same lot.
- 2. Substitution.** Parking spaces may not be substituted for a loading space or a loading space substituted for a parking space.
- 3. Standards.**

Floor Area (sq. ft.)	Loading Spaces Required
5,000 – 25,000	1
25,000 - 40,000	2
40,000 - 100,000	3
100,000 - 160,000	4
160,000 - 240,000	5
240,000 - 320,000	6
For each additional 90,000	1 added space

## SEC. 153.501.11 APPEALS

Appeals to parking requirements may be made as stipulated in Art. 300 Administration.

## SEC. 153.501.12 PARKING AND STORAGE OF CERTAIN VEHICLES

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in complete enclosed buildings or carports.

## **ARTICLE 153.601 USE REGULATIONS**

Uses permitted or subject to a Conditional Use Permit in any district under this Ordinance shall be subject to the requirements of the district provisions as supplemented or modified by this Article.

### **153.601.1 ACCESSORY NONRESIDENTIAL BUILDINGS.**

An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.

- A. Attached accessory.** An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this ordinance applicable to the principal building.
- B. Size.** An accessory building shall be no larger than 720 square feet and shall have a similar architecture to that of the main structure. A variance to the requirement may be requested in accordance with Article 153.301 Administration.
- C. Setbacks.** No detached accessory nonresidential building shall be located closer than five (5) feet to any side or rear lot line. In the case of a corner lot, said accessory building shall not project beyond the building line required or existing on the adjacent lot. Accessory buildings shall meet the front building setbacks for the zone it is to be located.
- D. Height.** Accessory buildings shall not exceed the maximum height as allowed by the appropriate table for zoning district in which it is located.
- E. Barns and Stables.** Barns and stables shall not be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which it is located.

### **153.601.2 ACCESSORY DWELLINGS.**

- A. Residential Districts.** Detached dwelling units shall meet the setback requirements for the zoning district in which it is located. The detached dwelling unit shall be no larger than 50% of the size of the primary structure and no taller than the height of the primary structure.
- B. C-1 District.** Density limitations for attached residential uses in the C-1 district shall follow that of the R-4 District.
- C. C-2, I-1 and I-2 Districts.** Density limitations shall follow that of the R-3 District. The building site and yard area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4,200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior boundaries of the total tract. The property owner shall execute and record a covenant providing that the residential structure shall not be sold separately from the principal structure and the covenant shall run with the land.

### **153.601.3 ANIMALS.**

Animals and fowls, where permitted in a district, shall be kept only in accordance with Tontitown City Ordinances and Codes. Proponents of such uses shall show that adequate measures will be taken to prevent odor, dust, noise or drainage from becoming a nuisance to uses on other properties. No incineration of animal refuse shall be permitted on the premises. In a Residential District, no more than four (4) domestic/household animals over the age of four (4) months shall be kept, maintained or harbored.

### **153.601.4 APICULTURE (BEEKEEPING).**

Beekeeping shall be allowed in permitted districts subject to the following regulations:

- A. Number permitted.** It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the lot on which the apiary is situated.
  - 1. One quarter acre or less lot size – 1 colony.
  - 2. More than one-quarter acre but less than one-half acre lot size— 2 colonies.
  - 3. More than one-half acre but less than one acre lot size – 3 colonies.
  - 4. One acre or larger lot size – 4 colonies.
  - 5. Regardless of lot size, where all hives are situated at least 200 feet in any direction from all property lines of the lot on which the apiary is situated, there shall be no limit to the number of colonies.
  - 6. Regardless of lot size, so long as all property other than the lot upon which the hives are situated, that is within a radius of at least 200 feet from any hive, remains undeveloped property, there shall be no limit to the number of colonies.
- B. Registration required.** All honeybee colonies shall be registered with the Arkansas State Plant Board and maintain an active certificate of inspection from such Board.
- C. Africanized honeybees prohibited.** Africanized honeybees shall not be permitted.
- D. Fencing of flyways.** In each instance in which any colony is situated within 25 feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary.
- E. Water.** Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.

#### **153.601.5 BED AND BREAKFAST.**

All applications for a conditional use permit for bed and breakfasts shall comply with the following requirements.

- A.** A bed and breakfast shall be considered to be a single-family residential structure and shall not be treated as a hotel. A bed and breakfast shall not operate as a restaurant.
- B.** A bed and breakfast shall be owner-occupied. Two (2) outside employees are permitted to operate the business.
- C.** A bed and breakfast shall conform to all federal, state, and local laws and regulations concerning health, safety, licensing, nondiscrimination, or any other applicable law or regulations.
- D.** A bed and breakfast shall have a working smoke detector in every sleeping room and a fire extinguisher in proper working order on every floor. No significant or substantial landscaping or structures shall be removed to provide the required parking. Prior to occupancy as a Bed and Breakfast, inspections shall be made by a Building Inspector and the Fire Inspector.

- E. A site plan of the property and a building floor plan shall be submitted with the application for special use permit showing entryways, guest room's location, exits, location of smoke detectors, fire extinguishers, etc.
- F. One (1) no illuminated sign, no larger than eight (8) square feet per side, and four (4) feet in height is permitted for each bed and breakfast facility.
- G. A maximum of five bedrooms may be available for rental for a maximum of five consecutive nights to any one guest and breakfast may only be served to registered guests. The price of breakfast shall be part of the rental fee.
- H. There shall be no individual cooking facilities.
- I. Off-street parking requirements shall be two (2) spaces per dwelling plus one for each guest room available for rental.
- J. The facilities shall not be rented for receptions, parties, weddings or similar activities unless potential negative impacts, including, but not limited to, traffic, parking and noise, have been addressed and the activity is specifically permitted in the use permit. Prior to any functions located at the Bed and Breakfast, the Planning Department shall be contacted. At this time the proposed activity will be evaluated, and if allowed, a temporary permit will be issued for that particular event with a set time period (not to exceed 2 days). A maximum of 4 temporary permits will be issued per year.
- K. Bed and breakfast facilities shall also be subject to any other conditions set by the Planning Department and/or Planning Commission.
- L. The Planning Commission may revoke any special use permit granted under this section for violation of any condition of the permit or if the facility shall become a nuisance to the community in which it is located.

#### **153.601.6 CAR WASH.**

Car wash establishments shall provide paved parking space on the lot for not less than five (5) automobiles plus stacking space for no less than 10 vehicles. Where any such use is located on a zoning lot abutting an R district and where any part shall be built along such line, any entrance to such establishment or exit there from shall be by way of a major street.

#### **153.601.7 CHILD CARE**

- A. **Child Care, Residential: four (4) children or less.** Residential child care, when authorized as a conditional use under Home Occupation Type A, shall meet the following provisions:
  - 1. A small residential child care shall not care for more than four (4) children at any given time, including the children under the age of ten residing in the home or the number approved by the state's licensing board, whichever is fewer.
  - 2. The dwelling shall meet all City, County and State Health Department requirements as to safety, design, facilities, equipment, and other features and the center shall be operated in a manner that will not adversely affect other properties and uses in the area.
  - 3. The residential child care shall be located in a single-family dwelling, which is the permanent residence of the operator(s) and shall be operated in a manner that will not change the character of the residence.
  - 4. The licensee must obtain the written consent of the property owner when the residential child care is operated in a single family dwelling that is leased or rented.

5. The dwelling shall be located on a lot having not less than four thousand (4,000) square feet of area.
6. There shall be at least thirty-five (35) square feet of usable indoor space for each child in the home. This area shall not include the kitchen(s), bathroom(s), hallway(s) or closet(s).
7. The outdoor play area shall be enclosed with an opaque fence not less than six (6) feet in height, provide at least seventy five (75) square feet of area per child present on the playground at any time, and shall provide an outside exit.
8. The area shall be well drained.
9. For residences with frontage on or access from a four (4) lane street, at least one (1) paved area designed with on-site parking and maneuvering shall be provided. This allows vehicles to drop off / pick up children and exit the site without backing out onto the street. The locations and design of the paved area shall be approved by the Building Official.

**B. Child Care, Residential: five (5) to ten (10) children.** Residential child care, when authorized as a conditional use under Home Occupation Type B, shall meet all of the provisions of a small residential child care and the additional following provisions:

1. A large residential child care shall not care for more than ten (10) children including the number of children under the age of ten that reside in the home, or the number of children approved by the state's licensing board, whichever is fewer.
2. A large residential child care shall provide verification of a Fire Department inspection at the time of application submittal for a conditional use permit.

**C. Child Care, Commercial.** Commercial day care centers, pre-schools, kindergartens, and nurseries must be operated from structures that are commercial in nature or operated within a religious facility. A conditional use permit is required for all commercial day cares operating within a religious facility or in a multi-family or residential office zoning designation. They shall be limited by the requirements of the State of Arkansas in licensing such a facility, and shall otherwise comply with all area regulations established for the district in which such facility is located.

#### **153.601.8 COMMERCIAL RECREATION FACILITY, OUTDOOR.**

Automobile, go-kart, miniature auto, racing or driving tracks shall be located not less than fifteen hundred (1,500) feet from any residential district unless enclosed by a solid fence or wall at least six (6) feet high, but in no case shall a track be located less than one thousand (1,000) feet from a residential district.

#### **153.601.9 COMMERCIAL VEHICLES IN RESIDENTIAL ZONES.**

A private garage located in a Residential Zoning District (including MF and RMH Zones) shall not be used for storage of more than one commercial vehicle that does not exceed one and one-half (1 ½) tons rated capacity per family living on the premises.

#### **153.601.10 COMMUNITY CENTER.**

In an R district, a community center shall meet the same requirements as set forth for Religious Facilities in § 153.601.19.

#### **153.601.11 HOBBY CHICKENS.**

Hobby chickens allowed in permitted districts shall meet the following regulations:

- A. Number permitted.** No more than four (4) hens shall be allowed for each single-family dwelling. No birds shall be allowed in multi-family complexes.

- B. Roosters prohibited.** No roosters shall be allowed.
- C. Slaughter.** There shall be no outside slaughtering of birds.
- D. Placement of enclosures.** All hen enclosures shall be placed at least 25 feet from neighboring dwellings and located in a rear or side yard.
- E. Condition of enclosures.** All enclosures must be kept in a neat and sanitary condition at all times and must be cleaned on a regular basis so as to prevent offensive odor.
- F. Food containers.** All food used for chickens shall be kept in a suitable container with a tight-fitting cover so as to be inaccessible to rodents.
- G. Applicability.** These regulations are not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor the lawful transportation of fowl through the corporate limits of the city. Neither shall they apply to poultry kept in areas of the City which are zoned A-1.

### **153.601.12 HOME OCCUPATIONS.**

Home occupations as defined herein, are divided into two classes, Type A and Type B, and may be permitted in accordance with the following provisions.

- A. Type A.** Type A home occupations are only those occupations that meet all of the requirements listed below. Type A home occupations are approved administratively by city staff.
  - 1. The home occupation is located completely within the principal dwelling unit.
  - 2. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No nonresident persons are employed.
  - 3. The home occupation is not primarily a retail sales operation. (Incidental sales, i.e. shampoo, cosmetics, are permitted.)
  - 4. The home occupation does not occupy more than 25 percent of the gross habitable ground floor area of the principal dwelling unit.
  - 5. The home occupation does not display merchandise or have outside storage of equipment or materials.
  - 6. The home occupation does not alter the external appearance of the principal dwelling unit.
  - 7. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside the principal dwelling unit.
  - 8. The home occupation has no more than one non-illuminated business identification sign mounted flush to the dwelling unit and not more than two square feet in area. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.
  - 9. The home occupation will not cause more than one customer vehicle to be parking in the vicinity of the principal dwelling unit at a time.
  - 10. The home occupation does not involve the external or visible manufacturing of goods on site.
- B. Type B.** Type B home occupations are those occupations that do not meet one or more of the requirements of a Type A home occupation and/or by their nature, have characteristics that may not

be suitable for a residential structure or area. Type B home occupations must be approved by the Planning Commission through the conditional use procedure. However, Type B home occupations must meet the following requirements to be considered for a conditional use permit.

1. Traffic generated by the proposed use must not negatively impact the safety, ambiance and characteristics of the residential neighborhood.
2. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside a structure.
3. The home occupation is not primarily a retail sales operation (Incidental sales, i.e. shampoo, cosmetics, are permitted).
4. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.
5. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No nonresident persons are employed.

**C. Examples of Home Occupations.**

1. Activities conducted principally by telephone, computer, facsimile or mail.
2. Studios where handicrafts or objects of art are produced.
3. Dressmaking or apparel alterations.
4. Independent consultant such as Mary Kay, Pampered Chef, Arbonne, Southern Living at Home, etc.
5. Residential child care:  
one (1) to four (4) children – Type A  
Five (5) to eight (8) children – Type B

**D. Prohibited Home Occupations.**

1. Bed and breakfast.
2. Eating and drinking establishments.
3. Kennels.
4. Barber or Beauty shops
5. Commercial sales or leasing of vehicles.
6. Rest home.
7. Clinic, doctor or dentist office.
8. Any use that requires a building code upgrade (i.e. from residential standards to commercial standards) to accommodate the home occupation.
9. Any use that required employees who are not the sole owner(s) or occupant(s) of the dwelling.
10. Residential child care which cares for more than eight (8) children at any given time, including those under the age of then that reside in the home.

- E. Hobbies.** Hobbies conducted solely within the confines of a structure with no external impacts whatsoever, are not considered home occupations, even if occasional items are sold on the premises or transported away from the premises for sale.

#### **153.601.13 MEDICAL SERVICES, HOSPITALS.**

Any and all hospitals shall be subject to the following conditions:

- A.** No building, work area or recreation area shall be nearer to a zoned lot in an R district than fifty (50) feet.
- B.** There shall be a screening wall maintained in good condition adjacent to any zoned lot in an A-1 or R district.

#### **153.601.14 MINI-WAREHOUSE STORAGE.**

On commercially zoned lands, not more than ten percent (10%) of such structure or structures may be leased to a single lessee, unless specific permission is first obtained from the Board of Adjustment (if applicable) Board of Adjustment (if applicable) (if applicable). Furthermore, the active utilization of any storage space or cubicle within a mini-warehouse storage area for a retail or wholesale business operation on such site is expressly prohibited.

#### **153.601.15 NONRESIDENTIAL USES IN OR ABUTTING R DISTRICTS.**

The following requirements apply to all charitable, cultural, education, recreation, health, institutional, religious, social and similar non-residential facilities where permitted in or abutting an R District. Separation of structures or areas for uses listed below from the nearest other property in an R District shall be as follows:

<b>Type of Structure or Element of the Facility</b>	<b>Minimum Building Separation</b>
<b>Outdoor Facility or Use</b>	
Eating or picnic area	100 ft.
Entrance driveway and parking	50 ft.
Outdoor lighted area	200 ft.
Outdoor passive recreation area	10 ft.
Outdoor spectator facilities	200 ft.
Outdoor sports area without spectator facilities	200 ft.
Tool or equipment storage	100 ft.
Refuse storage or incinerator	50 ft.
<b>Indoor Facilities or Use</b>	
Air-conditioning tower or compressor unit	50 ft.
Auditorium, ballroom, dining room or meeting room having a floor area of more than 1,200 square feet; game court, game room, gymnasium, locker or shower, spectator facilities, swimming pool, theater or similar indoor facility: If fully air-conditioned: If not fully air-conditioned:	100 ft. 200. ft.
Building of a general hospital or convalescent home	100 ft.
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 ft.
All other indoor facilities: If fully air-conditioned: If not fully air-conditioned:	50 ft. 100 ft.

All uses may be reduced to a separation of no less than 50' if Type A Screening, as described in Sec. 1400.16 of the Subdivision Code reference?, is provided for the property line abutting the residentially zoned property.

## **SEC. 153.601.16 OUTDOOR VENDORS**

### **A. Purpose and Intent.**

The regulations contained herein are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature. It is the intent of these regulations:

1. To serve and protect the health, safety and welfare of the general public;
2. To establish a uniform set of rules and regulations that are fair and equitable;
3. To provide economic development opportunities to small entrepreneurs in the City; and,
4. To promote stable vendors who will enrich the city's ambiance and be assets to public security.

### **B. Permit Required**

1. **Applicability.** It shall be unlawful for any person to engage in the business of outdoor vending unless he/she has first obtained a vending permit from the Building Department, except as exempted in *C. Exemptions* below. All permits shall be issued according to the regulations herein.
2. **Application for Permit.** Applicants may request either a permanent permit for a fixed location on a daily basis, or a temporary permit for a short-term sale lasting no longer than 5 consecutive days at a fixed location. The application for a vending permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including, but not limited to:
  - (a) The applicant's full name, current address, telephone number and proof of identity, together with a full-face photograph of the applicant, not less than two inches square nor more than three inches square.
  - (b) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale.
  - (c) Site plan showing proposed location and distances in compliance with the location requirements in Subsection H.
  - (d) Detailed scaled drawing, or photo, of the conveyance showing dimensions and location of any proposed signs.
  - (e) Written consent of the property owner, if applicable.
  - (f) Proof of notification of adjacent property owner (i.e. certified mail receipt or letter from the owner).
  - (g) If the applicant is engaged in the sale of food or beverages, a copy of the Washington County Health Department certificate shall be provided.
  - (h) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation of employment.
  - (i) If a motor vehicle is to be used, the motor vehicle make, year, model and license number.

3. **Fee.** The applicant shall pay the fee as adopted from time to time by City Council.

4. **Issuance of Permit.**

(a) The applicant shall be notified in writing by the Building Official or his designee of the City's decision to issue or deny the vending permit not later than thirty (30) days after the applicant has filed a completed application with the Planning Department.

(b) Each permit shall show the name and address of the vendor, the type of permit issued, the kind of goods to be sold, the amount of the permit, the date of issuance, the permit number, an identifying description of any motor vehicle or conveyance used by the vendor plus, where applicable, the motor vehicle registration number and a photograph of the vendor not less than two inches square nor more than three inches square. Each permit shall also show the expiration date of the permit.

(c) All permits issued under this section shall be both non-assignable and nontransferable.

5. **Display of Permit.** Any permit issued by the Building Official or his/her designee shall be carried with the vendor whenever he/she is engaged in vending. Certificate of Health Inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

6. **Expiration and Renewal.**

(a) **Permanent Permit.** All permanent vending permits expire at midnight on December 31st. A vending permit may be renewed, provided an application for renewal and permit fees are received by the City no later than the expiration date of the current permit. Any application received after that date shall be processed as a new application. The Building Official or his/her designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provision of these regulations, shall issue a new permit.

(b) **Temporary permit.** All temporary permits issued shall be valid only for the time period established on the permit.

7. **Notification of Name or Address Change.** All vendors shall assure that the current and correct name, residence address and mailing address are on file with the Planning Department. Whenever either the name or address provided by a permitted vendor on his application for a vending permit changes, the vendor shall notify the Building Official in writing within 60 days of such change and provide the same with the name change or address change.

C. **Exemptions.**

1. **Exempt activities.** The provisions of the ordinance do not apply to:

(a) Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer.

(b) The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books.

(c) The distribution of free samples of goods, wares and merchandise by any individual from his person.

(d) Sidewalk sales lasting no longer than three (3) consecutive days, so long as at least 4' of sidewalk remains clear for pedestrian access. No more than three sidewalk sales per business shall be permitted per calendar year.

- (e) Temporary sales to benefit nonprofit organizations and conducted on private property. Such sales shall be conducted no longer than five consecutive days.
- (f) Merchants participating in outdoor markets or special events organized or administered by the City of Tontitown or Downtown Tontitown, Inc. Such merchants shall be approved by the organizing or administering agency

- 2. **Claims of exemption.** Any person claiming to be legally exempt from the regulations set forth herein, or from the payment of a permit fee, shall cite to the Building Official the statute or other legal authority under which exemption is claimed and shall present proof of qualification of such exemption.

**D. Private Property.**

- 1. **Zoning Districts.** Outdoor vendors shall be permitted on developed private property only in commercial or industrial zoning districts. Outdoor vendors are prohibited in residential zoning districts.
- 2. **Number of Vendors.** Only one (1) outdoor vendor shall be permitted per lot.
- 3. **Permission required.** Outdoor vendors shall first obtain written permission from the property owner prior to submitting for an application.

- E. **Public Property / Right-of-Way.** Outdoor vending on public right-of-way and public property shall only be permitted in special outdoor vendor districts as identified herein or otherwise established by City Council.

**F. Size Restrictions.**

- 1. **Vending Stand.** Vending stand dimensions shall not exceed 8 feet in length, 4 feet in width, and 6 feet in height, (exclusive of canopies or umbrellas).
- 2. **Vending Trailer.** Vending trailer dimensions shall not exceed 8 10 feet in length, 6 feet in width, and 7 8 feet in height (exclusive of tires).

**G. Location Restrictions.**

No vendor shall be permitted to operate in the following areas:

- 1. Within an R (Residential) Zoning district.
- 2. Within 10 feet of any street intersection or pedestrian crosswalk.
- 3. Within 10 feet of any driveway, loading zone or bus stop.
- 4. In any area within 15 feet of a building entrance.
- 5. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza.
- 6. In the Town Square Outdoor Vendor District, against display windows of a fixed location business, unless written permission is given by the business owner.
- 7. Any area within 100 feet of a hospital, college, university, elementary school, middle school or high school.

8. Within 10 feet of any fire hydrant or fire escape.
9. Within 10 feet of any parking space or access ramp designated for persons with disabilities.
10. In a public parking space or public parking lot.
11. Within 25 feet of any bus stop sign.
12. Within 50 feet of driveway to police or fire station.
13. Within 50 feet of principal public entrance to food service business not owned by vendor.
14. Any area that obstructs pedestrian traffic. Must provide four (4) feet clear passageway for pedestrians at all times.
15. Vacant or undeveloped property.
16. Any location other than the assigned location as expressly described on the permit.

#### **H. Goods, Wares, and Merchandise Permitted.**

Permits may be issued for the retail sale of flowers and plants, fruits, vegetables, beverages, hot dogs, and other foods including prepared and prepackaged hamburgers, sandwiches, ice cream and snack type edibles. Any other merchandise proposed shall require a conditional use permit.

- I. Hours of Operation.** Vendors shall be allowed to engage in the business of vending only between the hours of 7 a.m. and 10 p.m. No vending station, conveyance or other item related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. Nor shall any motor vehicle be parked, stored or left overnight other than in a lawful parking place.

#### **J. Littering and Trash Removal.**

1. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their business. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.
2. Persons engaged in food vending shall provide a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

#### **K. Prohibited Conduct.**

No person authorized to engage in the business of vending under these regulations shall do any of the following:

1. Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to 20 minutes to load and unload vending conveyance and/or vending merchandise.
2. Obstruct traffic signals or regulatory signs.
3. Stop, stand or park any motor vehicle or any other conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
4. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public way overnight.

5. Use any conveyance that when fully loaded with merchandise cannot be easily moved and maintained under control by the permittee, his employee or an attendant.
6. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.
7. Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
8. Use, install or display any signage that is not in compliance with Article 153.801 of the Zoning Code or lighting that is not in compliance with Sec. 1100.11 reference? Outdoor Lighting of the Subdivision Code.

**L. Suspension and Revocation of Permit.**

1. **Conditions for Suspension/ Revocation.** In addition to the penalties punishable as set forth in Tontitown Municipal Code Section 1.32.01 reference?, any permit issued under these regulations may be suspended or revoked for any of the following reasons:
  - (a) Fraud, misrepresentation or knowingly false statement contained in the application for the permit.
  - (b) Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending.
  - (c) Conducting the business of vending in any manner contrary to the conditions of the permit.
  - (d) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or
  - (e) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
2. **Notification of Suspension or Revocation.** The Building Official shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the vendor of his right to appeal. Such notice shall be mailed to the address shown on the permit holder's application by certified mail, return receipt requested.
3. **Forfeiture of Fee.** If the City revokes a vending permit, the fee already paid for the permit shall be forfeited. A person whose permit has been revoked under this Section may not apply for a new permit for a period of one (1) year from the date that the revocation took effect.

**153.601.17 RECREATIONAL VEHICLE PARK**

**A. Site Restrictions**

1. **Location.** An RV park shall not be allowed within 200 feet of a residential district.
2. **Site Conditions.** Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.

3. **Soil and Ground Cover.** Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with vegetation that is capable of preventing soil erosion and eliminating objectionable dust.
4. **Drainage Requirements.** Surface drainage plans for the entire tract shall be reviewed by the city engineer who shall determine whether the proposed plan is compatible with the surrounding existing drainage pattern and the city drainage plan, prior to issuance of site plan approval and of building permits. No permit shall be approved in such instances where the Building Official finds the plan to be incompatible with surrounding areas.

**B. Density.** Park density shall be no more than fifteen (15) campsites per acre.

**C. Campsites and Campsite Spacing.** Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any attached awnings, carports, or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the recreational vehicle. Each site shall contain a stabilized, level vehicular parking pad of gravel, paving, or other suitable material. No part of a recreational vehicle or other unit placed on a recreational vehicle site shall be closer than five (5) feet to a site line.

**D. Vehicle Circulation and Parking**

1. RV park roads shall be designed for the safe and convenient movement of vehicles.
2. Where feasible, it is desirable that there be constructed a circular one way road.
3. Each traffic and/or parking lane shall be a minimum of ten (10) feet wide, thus the minimum width for a one way road with parking on one side would be twenty (20) feet.
4. Curves and turning radii shall be constructed to safely handle vehicles eight and one-half (8.5) feet wide and up to forty (40) feet long.
5. There shall be at least three (3) off-street parking spaces designated in the RV park for each two (2) RV sites.
6. All vehicle circulation or parking areas shall be paved with a minimum of two (2) inches of asphalt on seven and one-half (7.5) inches of compacted SB-2 gravel.

**E. Entrances and Exits**

1. All RV parks shall be provided with safe and convenient vehicular access from an improved public street. It shall be the responsibility of the applicant to provide the necessary access in all cases where there is no existing improved street or road connecting the RV park site with an improved existing public street or highway.
2. Any street improvement existing beyond the boundary of the RV park shall be improved in accordance with the standards of the City of Tontitown street regulations.
3. All entrances and exits on state highways shall be approved by the Arkansas Highway and Transportation Department. All entrances and exists on all other roads shall be approved by the Tontitown Street Department.
4. All parks with more than twenty-five (25) sites shall have two (2) or more entrances/exits. All parks with more than one hundred (100) sites shall have three (3) or more entrances /exits.

**F. Accessory Uses.** Management headquarters, recreational facilities, toilets, dumping stations, showers, coin operated laundry facilities, and other uses and structures customarily incidental to operation of a RV park and campground are permitted as accessory uses to the park. In addition,

stores, and other convenience establishments shall be permitted as accessory uses, subject to the following restrictions:

1. **Coverage.** Such establishments and the parking area primarily related to their operations shall not occupy more than five (5) per cent of the gross area of the park.
2. **Use.** Such establishments shall be restricted in their use to occupants of the park.
3. **Appearance.** Such establishments shall present no visible evidence from any street outside the park of their commercial character, which would attract customers other than occupants of the park.
4. **Setback.** The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the park.
5. **Recreation facilities.** A minimum of eight (8) percent of the gross site area for the RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

#### **G. Setbacks**

1. **Minimum park front setback:** Twenty-five (25) feet, except when the RV park fronts on a state highway then the minimum shall be fifty (50) feet.
2. **Minimum park side setback:** When abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
3. **Minimum park rear setback:** Fifteen (15) feet, except when the rear yard abuts a dedicated public right-of-way. If the rear yard abuts a dedicated public right-of-way, the minimum shall be twenty-five (25) feet.

**H. Screening.** Where needed to enhance aesthetics or to ensure public safety, the RV park shall be enclosed by a fence, wall, landscape screening, or other designs approved by the Building Official which will complement the landscape and assure compatibility with the adjacent environment.

**I. Electrical, Water Supply, and Sewage Disposal.** All construction and utility systems shall comply with all applicable city and state codes and standards, and be inspected by the appropriate inspectors.

**J. Length of Stay.** Spaces shall be rented by the day, week, or month and occupants of such space shall remain in the same RV park not more than three (3) months in any one (1) year period. No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond three (3) months in any twelve (12) month period shall be presumed to be permanent occupancy. Any action toward removal of wheels of a RV except for temporary purposes of repair is hereby prohibited.

**K. Development Application and Site Plan Requirements.** Every application for the construction, operation, maintenance, and occupancy for an RV park shall be accompanied with plans and specifications, fully setting out the RV spaces, the position of each RV parking space, the driveway giving access thereto, and a plan of landscaping. Before any permit is issued for an RV park or any increment thereof, the plans and specifications shall first be approved by the Tontitown City Planning Commission.

#### **153.601.18 RESIDENTIAL IN COMMERCIAL DISTRICT - EXISTING.**

A single-family detached dwelling existing legally within a district at the time commercial zoning is adopted or the district is rezoned to commercial may continue and be maintained as a single-family

residential use, may have its use expanded through remodeling or additions to the residence or through additions of or re-modeling or additions to accessory buildings, may be replaced if unintentionally destroyed, and may have accessory buildings replaced if removed or destroyed. All such changes shall meet the same accessory use permitted, height regulations, area regulations, and lot coverage as are required in the R-1 Single Family Residential District.

#### **153.601.19 RELIGIOUS FACILITIES.**

A church, synagogue or temple, including Sunday school facilities shall be subject to the following conditions. All existing churches are exempted from requirement A below.

A. Vehicular access. When located in an R district or on a zoned lot contiguous to an R district, such facility shall have its principal vehicular entrance and exit on a major street or on another thoroughfare within one hundred fifty (150) feet of its intersection with a major street.

B. Site plan. The site plan must be approved by the Planning Commission.

#### **153.601.20 SALVAGE YARD.**

Exterior storage and processing areas within one hundred (100) feet of any major street or any residential, commercial or industrial district shall be screened by a solid wall or fence at least eight (8) feet high so located as to prevent visibility from any major street or any residential, commercial or industrial district. Such fence shall not be used for advertising signs. Such fence may contain an identification sign not to exceed ten (10) square feet. Existing uses of this type shall have two (2) years to comply with this regulation. After this period, they shall be deemed in violation.

#### **153.601.21 SEWAGE TREATMENT PLANT.**

Sewage treatment plants or sludge drying beds are conditional uses in designated zones. Before this conditional use may be granted, a single, specific, legal, responsible entity must be assigned the specific responsibility for upkeep and maintenance of the facility. This responsibility must be a condition for the use to be allowed. Any sewage treatment plant or sludge drying bed must be approved by the Arkansas Department of Health, the Arkansas Department of Pollution Control and Ecology, and the Tontitown Corporation prior to approval of the conditional use.

#### **153.601.22 SEXUALLY ORIENTED BUSINESS**

Sexually oriented businesses shall not be allowed in any zoning district except C-2 where they may be allowed as conditional use subject to the following:

- A. Separation requirement. No sexually oriented business may be operated within 660 feet, measured in a straight line, without regard to intervening structures or objects from the nearest property line of the sexually oriented business to the nearest property line of the following:
1. a church;
  2. a public or private elementary, middle school, secondary or postsecondary school, pre school or child care facility;
  3. a boundary of a residential district (R-E, R-1, R-2, R-3, R-MH, R-ZL, and R-O);
  4. a public park, family recreation center as defined in A.C.A. Section 5-27-226, bowling alley, or skating rink;
  5. a hospital;
  6. properties listed on the National Register of Historical Places or local historic districts as identified by the Arkansas Historic Preservation Program;

7. any single family or multiple family residential use;
8. another sexually oriented businesses;
9. building premises, place or establishment that sells or dispenses any alcoholic beverage, which means but is not limited to distilled spirits wine or beer.

**B. Penalties**

1. Any person operating or causing to be operated any sexually oriented business in violation of any part of this ordinance, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00);
2. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed two hundred fifty dollars (\$250.00) for each day that the same is unlawfully continued.
3. A person who operates or causes to be operated a sexually oriented business in violation of this ordinance will be subject to a suit for injunction as well as prosecution for criminal violations.

- C. Subsequent Location of Certain Other Uses.** A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of a church, a public or private school, a preschool, a child care facility, a public park, a family recreation center, a bowling alley, a skating rink, residential zoning, a residential use, or an establishment selling or dispensing alcohol.

**153.601.23 SIDEWALK CAFES IN PUBLIC RIGHT- OF-WAY.**

- A. Open air.** Sidewalk cafes may not be enclosed by walls or permanent structures. Sidewalk cafes must be open to the air, except that an awning or canopy, conforming to requirements established in the zoning code, may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas shall have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.
- B. Furnishings.** All furnishings and fixtures shall be of a temporary nature, capable of being brought in at closing time, and shall be brought in and stored when nonoperational for a period of 48 hours or more.
- C. Sidewalk clearance.** For sidewalk cafes using City right-of-way for operation, there shall be a minimum of five (5) feet or 50% of the total sidewalk width, whichever is greater, for clear passageway between the sidewalk café tables, chairs and barriers and street trees, bike racks, lamp posts, sign posts, and any other fixtures or obstructions. The Building Official may require more than five (5) feet if necessary to protect the public safety. The Building Official may reduce this requirement where unusual circumstances exist and where public safety would not be jeopardized.
- D. Maintenance.** Property shall be kept clean and free of refuse. Trash containers shall be provided on site.
- E. Hours of operation.** All sidewalk cafes can operate during the hours of operation of the business establishment or up to 1:00 A.M., whichever is earlier.

**153.601.24 SOLAR ENERGY SYSTEMS.**

- A. Interpretation.**

1. **Single system.** There shall be no limit to the number of modules and arrays installed on each property that comprise a solar energy system. The number of solar panels and supporting equipment shall be considered as one system.
  2. **Ground mounted systems.** Ground mounted solar energy systems shall not be categorized as accessory buildings.
- B. Location.** Solar energy systems are prohibited in front yards and shall not be located past the front wall of the principle building.
- C. Height.**
1. **Roof mounted systems.** Roof mounted systems installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof installation. In no instance shall any part of the system extend beyond the edge of the roof.
  2. **Ground mounted systems.** The height of ground mounted solar energy systems and systems included on accessory buildings shall not exceed 12 feet in height.
  3. **Pole mounted systems.** The height of a pole mounted system shall not exceed that of the allowable height in the zoning district in which it is located.
- D. Setbacks.**
1. **Roof mounted systems.** Roof mounted systems shall meet the building setbacks for the zoning district in which it is located.
  2. **Ground mounted systems.** Ground mounted systems and systems attached to accessory buildings shall be not less than five (5) feet from any side or rear property line.
  3. **Pole mounted systems.** Pole mounted systems shall be set back from the nearest property line a distance no less than 1.1 times its total height, unless appropriate easements are secured from adjacent property owners. No portion of the solar energy systems, including the solar panels, may extend closer than 5 feet from any property line.
- E. Industrial operations.** Solar energy industrial operations are prohibited as a principle use. These are systems whose main purpose is to generate energy for sale back into the energy grid system, rather than being consumed on site.
- F. Utility connection.** If the proposed solar energy system is to be connected to the electricity power grid through net metering, the owner must receive written approval from the electric utility service provider that serves the proposed site. Copies of the written approval shall be submitted with the building permit application.

#### **153.601.25 TEMPORARY USES AND STRUCTURES.**

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions:

- A. Exemption.** Temporary uses located in temporary structures will not require a conditional use permit if they meet the following requirements: The use and/or structure shall not exceed three (3) days in a 12-month time period; the temporary structure shall not exceed 800 square feet in size and shall not create a traffic hazard.
- B. Conditional Use Permit Required.** A temporary use such as a carnival, circus, church tent revival, temporary tent sales, sales using non-permanent temporary structures, and outdoor sales/service

activity or similar temporary uses that do not meet the exemption requirements shall be permitted only in a non-residential zoning district and shall have no facilities located nearer to a residential district than 200 feet and no nearer a occupied residential structure than 300 feet. The site shall have access drives so located as to minimize traffic hazards. The applicant shall show that adequate measures will be taken to prevent odor, dust, noise, lights, and traffic from becoming a nuisance to uses on other adjacent properties. Each conditional use permit for such an enterprise shall be valid for a period of not more than 15 days and shall not be permitted for more than two (2) such periods for the same location within any one calendar year.

- C. **Temporary Classrooms.** Up to two (2) temporary classrooms may be permitted for public or private schools with expansion needs. Said classrooms shall meet local codes and ordinances. Said buildings shall be removed within fifteen (15) days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed more than eighteen (18) months, unless expressly authorized by the Planning Commission.

#### **153.601.26 WIND ENERGY SYSTEM (WES), SMALL.**

No WES shall be constructed, erected, installed, or located, unless approval has been obtained pursuant to these regulations by the building inspector.

- A. **Wind generation data.** The owner shall provide a minimum of six (6) months of data supporting the proposed location as a quality wind generation site.
- B. **Materials.** Wind turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Small wind energy towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise.
- C. **Lighting.** Small wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- D. **Advertising.** Small wind energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.
- E. **Wiring.** Electrical controls and control wiring and power-lines shall be wireless or underground except where small wind energy system wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
- F. **Height.** The tower height of a small wind energy system shall not exceed a height of 50 feet on a parcel of between ½ acre and one acre, unless otherwise approved by Planning Commission. But, in no instance shall a small wind energy system exceed 90'. For property sizes of one acre or more, there is no limitation on maximum total height except as imposed by FAA regulations. In those zoned areas that have maximum height limits, The height of the small wind energy system tower shall not exceed the height recommended by the manufacturer or distributor of the system.
- G. **Setbacks.**
  - 1. **Property lines.** Each small wind energy system shall be set back from the nearest property line a distance no less than 1.1 times its total height, unless appropriate easements are secured from adjacent property owners. No portion of small wind energy systems, including guy wire anchors, may extend closer than 5 feet from any property line.
  - 2. **Structures.** At the time of installation, each small wind energy system shall be set back from the nearest non-participating building structure (i.e., buildings on neighboring land) a distance no less than one and a half (1.5) times its total height.

3. **Public and Private Roads:** Each small wind energy system shall be set back from the nearest public road or neighboring private right-of-ways (e.g., shared driveway, neighboring driveway) a distance no less than 1.1 times its total height, determined at the nearest boundary of the underlying right-of-way for such public road.
  4. **Communication and electrical lines.** Each small wind energy system shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.
- H. **Noise.** Audible sound due to small wind energy system operations shall not exceed fifty-five (55) dBA for any period of time, when measured at the property line of any property containing an occupied building on the date of approval of any small wind energy system conditional use permit. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- I. **Shadow Flicker.** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures, such as landscaping and existing foliage.
- J. **Minimum ground clearance.** The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than fifteen (15) feet, as measured at the lowest point of the arc of the blades.
- K. **Covenants.** A copy of neighborhood or subdivision covenants or restrictions, if applicable, shall be provided at the time of application for a conditional use permit.
- L. **Code Compliance.** The small wind energy system shall comply with all applicable sections of the most recently adopted International Building Code.
- M. **Utility Connection.** If the proposed small wind energy system is to be connected to the electricity power grid through net metering, the owner must receive written approval from the electric utility service provider that serves the proposed site. Copies of the written approval shall be submitted with the building permit application.
- N. **Safety.**
1. **Climbing.** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.
  2. **Doors.** All access doors to wind turbine towers and electrical equipment shall be lockable and locked when unattended.
  3. **Signage.** Appropriate warning signage (e.g., electrical hazards) shall be placed on wind turbine towers, electrical equipment, and small wind energy systems.
- O. **Abandonment or defective systems.** Any small wind energy system found to be unsafe by the building official shall be repaired by the landowner to meet federal, state and local safety standards or removed within 15 days. If any small wind energy system is not operational for a period of 12 consecutive months or more, the City will request by registered mail and provide 45 days such response for the landowner to provide corrective action. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the City deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine at their own expense within 120 days of receipt of notice from the City. The City shall have the authority to pursue legal action if necessary.

#### **SEC.153.601.27 WIRELESS COMMUNICATION FACILITIES (WCF).**

## A. General Provisions

1. **Applicability.** Except as otherwise provided in Section 2 below (Towers and Antenna's Excluded from Regulation) no WCF may be constructed, erected, moved enlarged, or substantially altered except in accordance with the provisions of this article. Mere repainting of a WCF shall not, in and of itself, be considered a substantial alteration.
2. **Towers and Antenna's Excluded from Regulation.** Communications towers and antenna's not exceeding fifty (50) feet in height and that are customarily associated with residential uses (not of the commercial nature). Such towers and antenna's include (I) "Receive only" antenna's and (II) towers and antenna's used for private use such as ham radio operation.

### (a) Special Use Permit Required.

- i. Prior to obtaining a building permit for the erection or construction of a WCF a Special Use Permit must be obtained (in accordance with the requirements of Section 7) from the Planning Commission, except for instances where a building permit can be issued with administrative approval as outlined in Section B (Administrative Approvals).
- ii. WCF not approved as provided in Subsection (a) above or exempted under the provisions referenced in Subsection A.2 may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a Special Use Permit issued by the Planning Commission.

(b) **Administrative Approval.** If Plans submitted for an Administrative Approval (as outlined in Section B) include sufficient detail that the permit-issuing authority can determine whether the proposed WCF complies with the provisions of this chapter, then issuance of the requested Administrative Approval shall constitute approval of the proposed WCF.

## B. Administrative Approvals – Minor Wireless Telecommunication Facilities.

The Code Official, following an administrative review without requiring the issuance of a Special Use Permit, may approve the following uses.

1. Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, electric transmission tower and similarly scaled public utilities /facilities, water tower, or other freestanding non-residential structure), provided that the addition of the antenna does not add more than twenty (20) feet to the height of the existing structure.
2. Installation of an antenna on an existing tower of any height, and the placement of additional buildings or other supporting equipment used in connection with such additional antenna, so long as the proposed additions would add no more than twenty (20) feet to the height of the existing tower and would cause no more than twenty-five percent (25%) increase in the square footage occupied by the Communication Facility. The addition or modification, to the extent possible, should be designed to minimize visibility.

## C. Special Use Permits – Major Telecommunication Facilities.

### 1. **Applicability.** The following provisions shall govern the issuance of Special Use Permits:

- (a) If an antenna may not be approved administratively, pursuant to Subsection B of this section, then a Special Use Permit shall be required before placement of such antennas and accessory structures in all permitted zoning districts allowed.
- (b) In granting a Special Use Permit, the Planning Commission may impose conditions to the extent necessary to minimize any adverse effect of properties nearby the proposed tower location.

- (c) Any information submitted to the Planning Commission that relates to engineering matters shall be certified by an engineer licensed or registered by the State of Arkansas who is familiar with the design and erection of towers prior to submission.
- 2. Application.** The applicant requesting a Special Use Permit at the time of submittal shall submit the following information. All submitted supporting documentation must be signed and sealed by the appropriate licensed professionals.
- (a) A scale site plan containing information showing the property boundaries, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The proposed structures must contain information regarding any tower guy wire anchors and other apparatus needed for support. Must also indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility.
  - (b) A written report is to be submitted including information describing the tower height and design, a cross section of the structure, engineering specifications detailing construction of the tower, base and guy wire anchorage. Information describing the proposed painting and lighting schemes, the tower's capacity, including the number and type of antennas that it can accommodate.
  - (c) A statement, in writing, stating the availability, or unavailability of space on other facilities within City of Tontitown, to include reasons why co-location is not obtainable as set forth in Subsection 4 (Review of Other Options).
- 3. Review Criteria.** The following factors will be considered in granting a Special Use permit in addition to the factors listed above and factors set out in the ordinance to determine whether to grant a Special Use Permit. The Planning Commission may waive or reduce the burden upon the applicant for one or more of the following criteria if it is determined that the goals of this ordinance would still be served thereby.
- (a) Height of the proposed tower;
  - (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on adjacent and nearby properties;
  - (d) Surrounding topography;
  - (e) Surrounding tree coverage and foliage;
  - (f) Design of the tower, with particular attention paid to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (g) Availability of suitable existing towers and other structures as discussed in Subsection 4 (Review of Other Options).
- 4. Review of Other Options.** No new tower shall be constructed unless the applicant demonstrates to the reasonable satisfaction of the permit issuing authority that other existing towers or structures do not provide a more suitable and/or feasible location for the applicant's proposed antenna. Evidence submitted may consist of a written statement (in affidavit form) citing one or more the following conditions:
- (a) No tower or suitable structures exists within the geographic area, which meets the applicant's engineering requirements.

- (b) Existing towers or suitable structures are not of sufficient height to meet the applicant's engineering requirements.
- (c) Existing towers or suitable structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) The fees, cost, and/or contractual provisions required by the owner of an existing suitable site for co-location of the applicant's antenna is unreasonable.
- (e) Other significant limiting factors make existing towers or structures unsuitable for collocation of the proposed antenna.

#### **D. General Guidelines**

1. Antennas and towers may serve either principal or accessory uses. A different or existing use or an existing structure on the same lot shall not prohibit the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with applicable development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure.
2. All towers must meet or exceed the then current Federal standards and regulations of the FAA, the FCC, and any other agency of the federal or state government with the authority to regulate towers and antennas and the construction and specifications thereof. If such standards and regulations are changed, then the tower and antenna owners governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to timely bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antennas at the owner's expense and/or grounds to terminate or not renew owner's Special Use Permit.
3. Each applicant agrees to cooperate with the City and other applicants hereafter by designing towers such that other users may co-locate upon that same tower. Specifically, any tower constructed shall, unless otherwise permitted by the Planning Commission have at least three (3) times the capacity of its initial use in order that secondary users might lease the balance of the tower. No tower shall be permitted with capacity for only one (1) user. Applicants must offer to lease space in good faith and at a fair market rate. Any tower owner operating under a Special Use Permit who does not offer to lease out extra space at a fair market rate may be subject to either revocation or non-renewal of that Special Use Permit. Each applicant shall notify the Code Official Building Official in writing of the name and address of any and all co-users of a tower or antenna.
4. Space may be leased on city owned water towers for the purpose of constructing telecommunication towers and antennas. The addition of a tower or antenna may not add more than twenty (20) feet to the height of the existing water tower. All proposals for leasing of space upon City owned property must obtain approval by the City Council prior to construction and must meet all applicable requirements of this ordinance.
5. To ensure the structural integrity of towers, the owner of a tower shall construct and maintain the tower in compliance with standards contained in applicable local building codes and the applicable then current standards for towers that are published by the Electronic Industries Association, as amended from time to time. To this end, prior to the initial issuance or the renewal of any permit the tower shall be certified by a professional engineer licensed and/or registered by the State of Arkansas and knowledgeable in the design and/or registered by the State of Arkansas and knowledgeable in the design and/or analysis of towers as being safe and meeting all applicable

codes and standards. If upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such Tower into compliance within thirty (30) days, the Governing Authority may terminate that owner's Special Use Permit, cause that owner's Permit to not be renewed, and/or cause the removal of such tower (at the owner's expense).

6. Every tower shall be inspected a minimum of every twenty-four (24) months at the owner's expense, by a structural engineer registered and/or licensed in and by the State of Arkansas who is regularly involved in the maintenance, inspection, and/or erection of communication towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection checklist provided in the Electronics Industries Association ("EIA") Standard 222, "Structural Standards for Steele Antenna Towers and Antenna Support Structures", as such standard may from time to time be amended. A copy of such inspection record shall be provided to the Director of Building.
7. Through the use of security fencing, towers shall be enclosed by reasonably acceptable security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device and with applicable outward facing signs indicating "No Trespassing", "High Voltage" or other pertinent information, unless decided that the goals of this ordinance would be better served by waiving this provision in a particular instance. Barbed wire fencing or razor wire shall be prohibited.
8. Accessory equipment, either mobile or immobile not used in direct support of a communication facility shall not be stored or parked on the communication facility, unless repairs to the tower are then currently in progress.

**E. Setbacks and Separation.** The following requirements shall govern the setbacks applied to the location of towers and antennas within allowable zoning districts.

1. Towers must be setback from the property line a distance equal to half the overall height of the tower constructed, or minimum setback for the zoning classification, whichever is greater.
2. Guy wires and other support devices shall maintain a minimum setback of twenty (20) feet from any property line.
3. When towers or antennas are within 250 feet of a residential district, the setback must equal the height of the tower or antenna or equal the setback applied to any other structure within the zoning district, whichever is greater.
4. Accessory facilities must satisfy the minimum zoning district setback requirements.

**F. Tower and Antenna Height Limitations.** Towers are permitted to a maximum height of ninety (90) feet for a single use, one hundred twenty (120) feet for two users, and one hundred fifty (150) feet in height for three or more users. For the purposes of co-location, the applicant must submit information from a licensed professional engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space. A lightning rod, not to exceed ten (10) feet shall not be included within the height limitations

**G. Landscaping.** 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.

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

- (a) 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.
  - (b) 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.
2. 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.

**H. Aesthetics.** The following guidelines shall govern the aesthetics of all towers and antennas, provided however, that the Building Official may waive these requirements where it is determined that the goals of this ordinance would be better served thereby.

1. **Lighting.** Lighting of tower and antenna shall meet the following requirements:

- (a) Towers shall be artificially illuminated if required by the FAA or other applicable authority or the Governing Authority. If artificial lighting is required, the lighting design and intensity chosen should be that which complies with the applicable guidelines, yet causes the least disturbance to the surrounding and nearby properties.
- (b) Security lighting or motion activated lighting may be used around the base of a tower and within the telecommunication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.

2. **Stealth technologies.** This ordinance encourages creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses. Based on this, the color and design of towers and antennas shall meet the following requirements:

- (a) Towers shall be maintained with a galvanized steel finish, wood laminate or, subject to any applicable FAA standards, be painted a neutral color so that visual obtrusiveness is minimized.
- (b) The design of buildings and related structures within a telecommunication facility shall, to the extent possible, utilize building materials; colors, screening, and landscaping that will camouflage and blend the tower and related facilities into the natural and/or surrounding environment.
- (c) If an antenna is to be attached to a supporting structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color closely compatible with the color of the supporting structure.

**I. Abandoned Antennas or Towers.** Any tower no longer in use for its original communications purpose or any tower for which a Special-use Permit has been, for any reason, terminated or not renewed shall be considered abandoned. The owner of the tower shall provide the Governing Authority with a copy of any notice given to the FCC relating to its intent to cease operations.

- 1. The telecommunication facility and all accessory structures shall be dismantled and removed at the owner's expense within ninety (90) days of the date of cessation of operations. Failure to timely remove these facilities shall constitute a nuisance under this code subjecting the owner and/or users to a fine not exceeding \$500.00. Each day of delinquency shall constitute a new violation. Upon removal, the tower owners shall re-vegetate the telecommunication facility site to blend with the existing surrounding vegetation at their expense.
- 2. In the case of multiple antenna operators sharing use of a single tower, the provisions of this section regarding removal of abandoned towers shall not become effective until all users have

ceased communications operations provided all other provisions of this section are fully complied with.

3. All obligations imposed by this ordinance shall be the obligation of the applicant(s) and, if applicable, the lessee of the property upon which the tower and/or antenna(s) are located. Prior to co-location of a site, the original applications shall sign an agreement where co-locators accept full site maintenance in the event that the original applicant abandons the site. In the event that any tower or antenna is not properly and timely removed as required hereunder, then the City of Tontitown may proceed to remove the abandoned tower and/or antenna (s) and the communication facility, in general, and thereafter recover the costs of removal, together with the costs of enforcement of this ordinance (including reasonable attorney's fees), from the applicant(s).

- J. **Notification of Change of Ownership/Operator.** Upon assignment or transfer of a Special Use Permit or any of the rights there under to a new wireless telecommunication operator, the owner or operator shall provide written notice within thirty (30) days to the Code Official.
- K. **Appeals and Variances.** Procedures for appeals and variances can be found in the appeal section of the Zoning Ordinance.

## **ARTICLE 153.701 NONCONFORMITIES**

### **SEC. 153.701.1 CONTINUATION OF NONCONFORMING BUILDINGS, STRUCTURES AND USES**

A nonconforming building or structure legally existing at the time of adoption of this ordinance or any use, structure or lot which has been rendered nonconforming by the provision of this ordinance may not be continued and maintained except as provided in this section.

### **SEC. 153.701.2 NONCONFORMING BUILDINGS AND STRUCTURES**

- A. Alteration, Enlargement or Relocation of Buildings and Structures.** A building or structure which is conforming to use, but is nonconforming to setbacks, height, or off-street parking space, may be structurally enlarged or added to provided that the enlargement or addition complies with the setbacks, height, and off-street parking requirements of the district in which such building or structure is located. No nonconforming structure or building shall be moved, in whole or in part, to another location within the city unless otherwise approved by the City Council. Nothing in the provisions of the foregoing regulation shall in any manner prevent or prohibit normal maintenance of the premises.
- B. Destruction of Nonconforming Buildings or Structures.** Any structure developed prior to ordinance passage that complied with former ordinance standards but has been rendered substandard by the new ordinance may be termed a preexisting nonconforming structure and, in the event of damage or destruction, may be rebuilt to completion at the original site within six months of destruction and shall not exceed the original dimensions of the nonconforming building or structure.

### **SEC. 153.701.3 NONCONFORMING LOTS OF RECORD**

- A.** In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment (if applicable) Board of Adjustment (if applicable)l (if applicable)l.
- B.** If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirement established by this ordinance nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

### **SEC. 153.701.4 NONCONFORMING USES**

- A. Building Vacancy.** A building, structure or portion thereof or land utilized for a nonconforming use which is or hereafter becomes vacant and remains unoccupied for a continuous period of six months shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.
- B. Damage or Destruction of Buildings or Structures.** If any structure that is devoted in whole or in part to a nonconforming use is destroyed by fire, explosion, or other casualty, such structure may be repaired and reconstructed and used for the same purposes as it was before the damage or destruction, provided such repair or reconstruction is commenced and completed within six months of the date of such damage or destruction. In no event shall the structure be rebuilt, repaired or otherwise altered to increase the floor space or height of the original building in which the

nonconforming use was conducted, except that the building height may be increased to minimally accommodate building code standards and not increase the nonconforming use.

- C. Accessories to Primary Nonconforming Uses.** Addition of or enlargement, alteration or relocation of accessory uses which are incidental to and accommodate the primary nonconforming use may be permitted if, after notices and a public hearing the Planning Commission finds the accessory promotes the public health, safety and welfare and does not expand or enlarge the primary nonconforming use. The procedures for application and review shall be the same as those for a conditional use.
- D. Expansion of Building.** Buildings or structures which are nonconforming as to use may not be enlarged or relocated on the lot. A nonconforming use may not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.
- E. Discontinuance of Use.** If a nonconforming use or a portion thereof is discontinued for a continuous period of six months or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which building or structure is located. A vacant or partially vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of six months after the effective date of this ordinance.
- F. Land.** A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of this ordinance. If such nonconforming use or portion thereof is discontinued for a continuous period of six months, or changed any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

#### **SEC. 153.701.5 DISTRICT CHANGES**

Whenever boundaries of a zoning district shall be changed so as to transfer an area from one district to a different classification to another, the foregoing provisions shall also apply to any nonconforming uses existing therein.

# ARTICLE 153.801

## SIGNS AND BILLBOARDS

### SEC. 153.801.1 PURPOSE

Signs use private land and the sight line created by public rights-of-way to inform and persuade the general public by publishing a message. This section provides standards for the erection and maintenance of signs. All signs shall be erected and maintained in accordance with these standards. The general purpose of these standards is to promote, preserve, and protect the health, safety, general welfare, convenience, and enjoyment of the public, to preserve and protect the aesthetic quality of Tontitown, and to achieve the following:

**A. Safety.** To promote the safety of persons and property by providing that signs:

1. Do not create a hazard due to collapse, fire, collision, decay, abandonment, or other safety considerations;
2. Do not obstruct fire fighting or police surveillance;
3. Do not create traffic hazards by confusing or distracting motorists;
4. Do not impair the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs and signals; and,
5. Do not otherwise interfere with or detract from the safety of persons or property.

**B. Communications Efficiency.** To promote the efficient transfer of information in sign messages by providing that:

1. Customers and other persons may locate a business or service;
2. No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and,
3. The messages in signs may otherwise be communicated efficiently.

**C. Landscape Quality and Preservation.** To protect the public welfare and to enhance the appearance and economy of the city, by providing that signs:

1. Do not interfere with scenic views;
2. Do not create a nuisance to persons using the public rights-of-way;
3. Do not constitute a nuisance to occupancy of adjacent property by their brightness, size, height, or movement;
4. Are not detrimental to land or property values;
5. Do not overwhelm people by the number of messages presented, and do not interfere with the exercise of freedom of choice to observe or ignore said messages, according to the observer's purpose;
6. Do not negatively affect the city's tourism industry;
7. Do not create or worsen visual clutter or visual blight;

8. Do contribute to the special character of particular areas or districts within the city, helping the observer to understand the city and be oriented within it;
9. Do otherwise protect and preserve a quality landscape in the city; and
10. Do otherwise enhance the appearance and economy of the city.

## **SEC. 153.801.2 COMMON SIGNAGE PLAN**

Prior to issuance of any sign permit in a development containing several buildings or businesses, a common signage plan for the development shall be approved and filed with the Building Official. Signage plans require Planning Department approval. In the case of any conflict between the signage plan and the zoning ordinance, the ordinance shall govern.

- A. Drawings.** Drawings, sketches and/or photographs shall be submitted and kept on file to demonstrate the common signage plan. The common signage plan shall consist of three (3) elements:
  1. **Location.** Identification of sign locations on buildings or property.
  2. **Materials.** Description of the type of sign and sign materials including construction materials and proposed lighting, if any.
  3. **Size.** Itemization of sign size and/or area at identified locations.
- B. Multiple signs.** Where more than one sign is located on a property, or where more than one building or business is located in a single development project, such as a shopping center, the common signage plan will demonstrate that these elements create consistency and uniformity among signs within the project. The requirements of a common signage plan shall apply to all businesses within a related project, even if the properties have been subdivided.
- C. Amendments.** Revisions or amendments to the common signage plan shall require documentation from all tenants on the property prior to approval.
- D. Minor alterations.** Minor alterations in sign locations resulting from unexpected conditions on site may be approved by the Building Official or the Director's designated representative.

## **SEC. 153.801.3 APPLICATION FOR A SIGN PERMITS**

Signs permitted in *Sec. 153.801.9 Signs Permitted with a Sign Permit* shall be allowed with a sign permit and signs permitted in *Sec. 153.801.10 Signs Permitted with a Temporary Sign Permit* shall be allowed with a temporary sign permit issued by the Building Department.

- A. Application.** Complete the Sign Permit Application provided by the Building Department.
- B. Fee.** The applicant shall pay the fee as adopted from time to time by City Council.
- C. Drawings.** A scaled drawing of the sign including sign height, area, design, content, and dimensions of the sign and the design and dimensions of any measures used to support the sign or used to affix the sign to a wall, window or the ground.
- D. Site plan.** A scaled site plan showing the location of the sign on the property or building including street right-of-way and property lines. For wall signs, building face shall be dimensioned.
- E. Materials List.** A list of materials used to construct the sign.

#### SEC. 153.801.4 REVIEW AND APPROVAL

- A. **Approval.** After a review of the application by the Building Department shows that the sign meets zoning, electrical, and ICC Building Code requirements, the applicant shall receive a permit to erect or install the approved signs.
- B. **Permanent Signs.** The applicant shall request an inspection after installation of permanent signs.
  - 1. **Expiration of permit.** The sign permit shall be null and void if sign installation is not completed within six (6) months or the signs are not in conformance with the approved application. The Building Department may grant one thirty (30) day extension to the sign permit.
  - 2. **Successors.** Valid sign permits may be assignable to a successor of the business.
- C. **Temporary Sign.** Temporary sign permits shall be reviewed and issued in compliance with the regulations set forth in Sec. 153.801.10 Signs Permitted with a Temporary Sign Permit.
- D. **Revocation of Permits.** The Building Official or his or her designee may revoke a sign permit if a sign is found to be in violation of this ordinance.
- E. **Minor alterations.** Minor alterations in sign locations resulting from unexpected conditions on site may be approved by the Building Official or the Director's designated representative.

#### SEC. 153.801.5 INTERPRETATION OF SIGN REGULATIONS

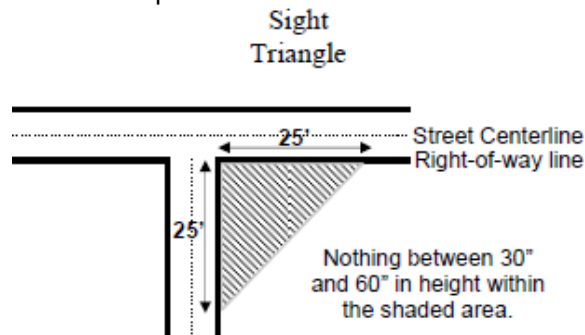
- A. **Street frontage.** Street frontages shall be considered separately for each street the lot fronts, measured by property lines.
- B. **Maximum area.** Maximum area shall be the area of one side of the sign.
- C. **Measurable area.** Measurable area is the area within the outer boundaries of standard geometrical shapes, primarily squares, rectangles, and circles, containing and defined by the extreme reaches of information or graphic parts of the signs.
- D. **Maximum height.** Height is measured from the point at which the sign and supports are attached to the ground, measured to the highest point on the top of the sign.
- E. **Appeal of Interpretation.** All administrative interpretations of sign regulations may be appealed to the Board of Adjustment (if applicable). Where necessary, the Board may consider not only the current or intended uses of a sign but also its past use. It shall be the obligation of the sign owner to furnish records concerning the past use, if requested by the board.

#### SEC. 153.801.6 GENERAL REGULATIONS

##### A. Design and Construction

- 1. **Code Compliance.** All signs shall comply with applicable provisions of the ICC Building Code and the National Electrical Code.
- 2. **Materials.** Signs shall be constructed of permanent materials and permanently affixed to the ground or building except for the following signs:
  - (a) Temporary signs meeting the regulations elsewhere in this Article.
  - (b) Real estate signs.
  - (c) Construction signs.
  - (d) Window signs.
  - (e) Yard sale signs, political and election signs.

- B. Sight Triangle.** No sign shall constitute a hazard to traffic including, but not limited to signs located within the sight triangle of an intersection. The sight triangle is defined by a triangular area formed by a diagonal line connecting two points on intersecting street rights-of-way, measured 25' along each right-of-way starting at the intersection point.



- C. Maintenance.** All signs, to include permanent and temporary signs and signs that do and do not require a permit, shall be maintained in good condition, kept free of cracked or peeling paint, missing or damaged sign panels or supports, and weeds, grass or vegetation which obscures the view of the sign message. Sign landscaping shall be maintained so as not to interrupt the view of the sign.
- D. Obstructions.** No sign shall block entrances or exits to buildings to include windows, doors, and fire escapes.
- E. In public right-of-way.** No sign, including supports, frames, and embellishments, shall be located within a public right-of-way and/or attached, affixed, or painted on any utility pole, light standard, utility box or pedestal, tree, rock, or other natural object located within the public right-of-way or on public property, except as specifically permitted in this Article. Generally, signs located away from the street behind the sidewalk or utility poles shall be considered to be located outside the public right-of-way.
- F. Illumination**
- 1. Source.** Signs may be illuminated from within or from an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with traffic safety. External illumination is preferred.
  - 2. Internal illumination.** Internally illuminated signs in all districts shall have an opaque background and translucent copy.
  - 3. External Illumination.** External illumination shall be selected, located, aimed and shielded so that direct illumination is focused solely on the sign face, away from adjoining properties and the public street right-of-way. Down-lighting is preferred.
  - 4. Strung lights.** Signs shall not be illuminated by a string of lights placed around the sign.
- G. Changeable Copy Signs.** Manual changeable copy signs and electronic changeable copy signs shall be allowed subject to the following:
- 1. Area.** No more than 50% of the area of a sign shall be devoted to changeable copy except for signs for theaters which may devote up to 80% of a sign to changeable copy.
  - 2. Animation.** In no instance shall changeable copy signs produce fluctuating illumination or animation as prohibited in Sec. 153.801.11 A.
  - 3. Copy rotation** Each message shall be displayed for at least 3 seconds before alternating to the next message without violating Sec. 153.801.11 A. Messages shall be permitted to scroll from one

direction onto the message board so long as the message remains on the message board for at least 3 seconds before scrolling off.

#### **H. Nonconforming, Obsolete, and Unpermitted Signs**

1. Signs which were lawful at the time of their construction or placement but are not in conformance with current regulations shall be permitted to be maintained as nonconforming signs until such time that the sign is damaged or in a state of disrepair or with a change of use of the site. At that time, the sign shall be replaced with a sign compliant with these regulations

#### **SEC. 153.801.7 SIGNS PERMITTED WITHOUT A PERMIT**

The following signs shall be permitted in all zoning districts. No sign permit shall be required.

**A. Art.** Works of art which do not identify a commercial business, product or service.

#### **B. Construction signs.**

1. **Residential districts - lot.** Construction signs on individual lots in residential districts, subject to the following regulations:
  - (a) **Number permitted.** One construction sign per street frontage.
  - (b) **Maximum area.** Six (6) square feet.
  - (c) **Maximum height.** Six (6) feet.
  - (d) **Removal.** The sign shall be removed prior to the issuance of a Certificate of Occupancy or upon completion of the project.
2. **Residential districts - subdivision.** Construction signs for a subdivision in residential districts, subject to the following regulations:
  - (a) **Number permitted.** One per street frontage of subdivision.
  - (b) **Maximum area.** Thirty-two (32) square feet per sign face.
  - (c) **Maximum height.** Twelve (12) feet.
  - (d) **Removal.** The construction sign shall be removed within 7 days of erection of a permanent subdivision sign.
3. **Non-residential districts.** Construction signs in non-residential districts, subject to the following regulations:
  - (a) **Number permitted.** One per street frontage.
  - (b) **Maximum area.** Thirty-two (32) square feet per sign face.
  - (c) **Maximum height.** Twelve (12) feet.
  - (d) **Removal.** The construction sign shall be removed prior to obtaining a certificate of occupancy or erection of a permanent sign, whichever comes first.

- C. **Farm signage.** Signs on farms of at least five acres in size and registered with the U.S. Department of Agriculture's Farm Service Agency (FSA) advertising sale of products grown or produced on the premises.
- D. **Flags.** U.S., State, Municipal, or Corporate Flags. The United States flag shall be flown consistent with the federal flag code (U.S. Code Title 13 Chapter 1 – The Flag).
- E. **Hand carried noncommercial signs.**
- F. **Historic markers.** Attached or freestanding historic or memorial markers erected by a governmental agency or private, nonprofit historic preservation or education organization pursuant to a plan or program for the erection of such signs or markers applied on a national, state or county wide basis or to properties within a duly authorized local historic district. Such plan or program must employ uniform standards of eligibility and the sign or marker must commemorate a person, building, place or event or historical, civic, cultural, natural historical, scientific, or architectural significance. Historical markers are subject to the following regulations:
1. **Maximum area.**  
Freestanding: Eighteen (18) square feet.  
Wall: Six (6) square feet.
  2. **Materials.** Each such sign or marker shall be made of cast metal, cut masonry, painted wood or metal or other similar weather proof material.
- G. **Holiday decorations.** Temporary lighting and displays that are part of customary holiday decorations, subject to the following regulations:
1. **Time period.** Displays and lighting associated with holiday celebrations shall not be illuminated before November 1, and shall not be illuminated after January 15.
  2. **Subject.** Such decorations shall not contain a commercial message.
  3. **Location.** Such signs shall not be located in the right-of-way.
- H. **Identification signs.** Customary identification signs, such as: building numbers, addresses, private parking signs, no trespassing signs or dangerous animal signs that are no larger than three (3) square feet in area per sign.
- I. **Incidental or directional signs.** Incidental signs, those that give information or direction for the convenience and necessity of the public, such as "entrance", "exit", "no admittance", "telephone", or "parking, subject to the following regulations:
1. **Maximum area.** Three (3) square feet
  2. **Maximum height.** Four (4) feet.
  3. **Subject.** Such sign shall not contain any logos.
- J. **Interior signs.** Signs visible only from the interior of a structure, such as in a mall, where they are not visible from a public right of way or public space.
- K. **Non-legible.** Any sign not legible either from any public right-of-way or from any lot or parcel other than the parcel on which such signs are located or from an adjacent lot or parcel under common ownership with the lot or parcel on which such sign is located. Such signs shall meet the following conditions:

**1. Maximum area.**

Thirty-two (32) square feet.

**2. Maximum height.**

Six (6) feet, if freestanding.

- L. Non-profit announcements.** Announcements by public or non-profit organizations of fund raising events, special events or activities of interest to the general public, other than political signs, subject to the following regulations.

**1. Maximum area.**

Residential: Six (6) square feet

Non-residential: Thirty-two (32) square feet.

**2. Maximum number permitted.** One per lot.

**3. Time period.** Signs may be erected up to two (2) weeks prior to the event.

**4. Removal.** Signs shall be removed within three (3) days after the event.

**5. Banner attachment.** Banners shall be attached to a fixed structure, either a building or freestanding sign.

**6. Permitted special event signs.** When a property owner agrees to allow a non-profit announcement on their property, such sign shall not count toward the special sales event and promotion signs permitted in Sec.

- M. Political signs.** Temporary political signs erected in connection with elections or political campaigns, subject to the following regulations:

**1. Maximum height.** Eight (8) feet.

**2. Location.** Political signs are prohibited on utility poles and may not obstruct driver's vision clearances at an intersection. Such signs shall not be placed in public right of ways.

**3. Time period.** Political signs shall not be posted earlier than sixty (60) days prior to a primary, general or special election

**4. Removal.** Such signs shall be removed within three (3) days after the election.

- N. Public notice.** Any public notice or warning required by valid and applicable federal, state or local law, regulation or ordinance.

- O. Public park signs.** Signs in public parks of a noncommercial nature erected by a government agency such as directional signs, rules signs, safety signs or site identification signs that are no greater than eight (8) feet in height.

- P. Public sign.** Any federal, state or local traffic control or other public sign.

- Q. Real estate signs - residential.** Real estate signs in residential districts.

**1. Generally.**

- (a) *Location.* No real estate signs shall be located in the public right-of-way. If the right-of-way cannot be determined, signs shall be placed behind sidewalks and/or utility poles.

(b) *Removal.* Signs for properties for sale shall be removed within 72 hours of property closing.

**2. On-site signs.** On-site real estate signs in residential districts, subject to the following regulations:

(a) *Maximum area.* Without a rider: six (6) sq. ft.; with riders: eight (8) sq. ft.

(b) *Maximum height.* Six (6) feet.

(c) *Maximum number permitted.* Freestanding – One (1) per street frontage.  
Wall – One (1) per dwelling unit.

(d) *Riders permitted.* Two sign riders are permitted as long as the maximum sign area does not exceed eight (8) square feet.

**3. Off-site signs.** Off-site directional real estate signs for the sale or rent of residential property, subject to the following regulations:

(a) *Maximum area.* Two (2) square feet for a single user, or four (4) square feet when shared by multiple projects.

(b) *Maximum height.* Four (4) feet.

(c) *Maximum number permitted.* Four (4) directional real estate signs per project (or per property when a single dwelling is for sale or rent), in order to avoid the placement of a series of signs along several miles of roadway.

(d) *Location.* Directional signs shall be placed no farther than two (2) road miles from the project or property for which directions are given.

(e) *Intersections.* Up to two (2) directional signs are allowed at intersections. However, each user is allowed only one (1) sign per intersection. Therefore, each of the signs must identify different users.

(f) *Illumination.* Off-site directional real estate signs shall not be illuminated.

**R. Real estate signs – non-residential.** Real estate signs in nonresidential districts, subject to the following regulations:

**1. Maximum area.** Thirty-two (32) square feet.

**2. Maximum height.** Eight (8) feet.

**3. Maximum number permitted.**

(a) Freestanding: One (1) per street frontage

(b) Wall: If the entire building is for sale or lease: one (1) per building façade. If portions of the buildings are for sale or lease: one (1) per lease space.

S. **Religious institution directional signs.** Off-site signs directing a person to a religious institution shall meet the following conditions:

1. **Maximum area.** Six (6) square feet.
2. **Maximum height.** Eight (8) feet.
3. **Maximum number permitted.** Four (4) per religious institution.
4. **Subject.** Such signs may only bear the name and address of the church with direction and distance to the church.
5. **Permission.** Such signs require property owner permission.

T. **Stadium signage.** Commercial signs within City stadiums (High School Football and Baseball Stadiums).

U. **Traffic control signs.** Traffic control signs on private property such as “stop”, “yield”, and similar signs, the face of which meet Arkansas Department of Transportation standards, subject to the following regulations:

1. **Maximum area.** Eight (8) square feet.
2. **Subject.** Such sign shall not contain a logo or commercial message.

V. **Vending machines, ATMS, gas pumps.** Vending machines, automatic tellers, or gasoline pumps which display the name, trademark or logo of the company or brand or prices shall not exceed thirty-two (32) square feet in area per side. The display shall be an integral part of the machine or pump.

W. **Window signs.** Any sign, pictures, symbol or combination thereof that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window shall not exceed 40% of the window area.

X. **Yard sale signs - Individual.** All such yard, garage, moving, rummage sale signs, subject to the following regulations:

1. **Advertising.** No signs shall be posted advertising said sale more than three (3) days prior to the sale. Signs shall be removed one (1) day after the event. The sign shall include the address and date(s) of the sale.
2. **Maximum area.** Six (6) square feet.
3. **Maximum number permitted.** One (1) at the site of the sale and one (1) off-site directional sign.
4. **Enforcement.** The Code Enforcement Officer shall have authority to remove the sign and issue a citation for any signs not in compliance with these regulations.
5. **Location.** Signs shall be placed behind the sidewalk for streets with sidewalks and 10' behind the back of curb or edge of pavement for streets without sidewalks.

Y. **Yard sale signs – Neighborhood.**

1. **Definition.** A neighborhood yard sale sign shall be permitted to advertise for a neighborhood yard sale event whereby a minimum of three households within the same subdivision have individual yard sales simultaneously.
2. **Display period.** No sign shall be posted advertising said sale more than 7 days prior to the sale. Signs shall be removed one (1) day after the event.
3. **Display information.** Signs shall include the date(s) of the sale and, at a minimum, the site address of the coordinator of the event.
4. **Maximum Area.** 32 square feet.
5. **Maximum Number Permitted.** One per subdivision entry.
6. **Location.** The signs shall be attached to a permanent subdivision entry sign. If no subdivision entry sign exists, the sign shall be attached to a fence or building near the subdivision entry.
7. **Individual Sales.** These regulations shall not prohibit the individual yard sale from advertising in compliance with 153.801.7 (X) above.
8. **Enforcement:** The Code Enforcement Officer shall have authority to remove the sign and issue a citation for any signs not in compliance with these regulations.

#### **SEC. 153.801.8 SIGNS PERMITTED IN PUBLIC RIGHT-OF-WAY WITHOUT A PERMIT**

The following signs shall be permitted within public rights-of-way. No sign permit shall be required.

- A. **Emergency.** Emergency warning signs erected by a government agency, utility company, or a contractor doing work in a public right-of-way.
- B. **Public.** Public signs erected by the city, county, state or federal government.
- C. **Moveable sidewalk signs.** Moveable signs located on sidewalks within the street right-of-way in pedestrian-oriented commercial areas within the C-1 or C-2 Districts, provided that all the following criteria are met:
  1. **Area.** The area consists of one or more contiguous blocks where at least 75% of the block face contains buildings which abut the street sidewalk, and at least 50% of the buildings have space at the street level which consists of retail stores, shops and restaurants. Also, the sidewalk in the area must be wide enough to allow for at least six (6) feet of width for unrestricted pedestrian movement with the sidewalk signs in place.
  2. **Maximum height.** Four (4) feet.
  3. **Maximum width.** Two and one-half (2 ½) feet, or 30% of the sidewalk width, whichever is less.
  4. **Illumination.** There shall not be any lighting allowed on the sign and the lettering shall be small enough to not be legible from automobile traffic on the street.
  5. **Detached.** The sidewalk sign shall be moveable, shall not be attached in any way to the sidewalk, and shall not be chained or attached in any way to street furniture, other signs, street trees, other landscaping, or other fixtures or appurtenances on or in the sidewalk.
  6. **Location.** Sidewalk signs shall also not be placed on any section of the sidewalk in a way that narrows the effective width of the sidewalk for pedestrian movement purposes at that point to less than six (6) feet.

**7. Encroachment agreement.** An encroachment agreement allowing for a sidewalk sign on the public right-of-way. As part of the encroachment agreement approval, each individual merchant desiring to utilize such signs, or, alternatively, the merchants association or building agency representing such merchants collectively, shall produce a form of surety (insurance) acceptable to the City Street Department for sidewalks in the City, which protects the City or State from any liability resulting from injury or property damage caused by any such sign.

**8. Removal.** Each sidewalk sign permitted under this section shall be removed each day by the close of business, and be replaced or removed when the appearance or condition of the sign deteriorates through damage, weathering, etc.

**D. Subdivision.** Signs identifying a recognized community, subdivision or development provided that such signs were lawfully erected pursuant to an encroachment agreement, and are consistent with an approved overall sign plan, site plan or subdivision plat. Must be included in preliminary plat or large-scale development plan.

#### **SEC. 153.801.9 SIGNS PERMITTED WITH A SIGN PERMIT**

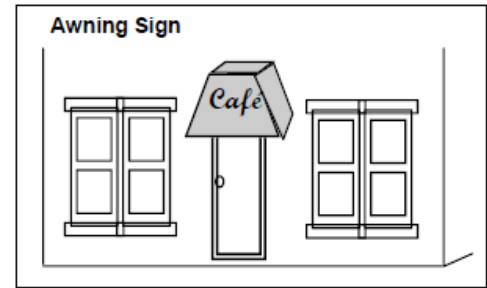
The following signs are allowed with a sign permit, subject to the size, height and location regulations specified in this Section. A common signage plan is required in accordance with *SEC. 153.801.2 Common Signage Plan*. Erection of the following signs without a permit is a violation of this Section.

#### **A. Height and Area Regulations**

<b>Zoning District</b>	<b>Sign Types Permitted</b>	<b>No. of Signs Permitted</b>	<b>Max. Height</b>	<b>Maximum Sign Area (per sign face)</b>
<b>A-1 RE R-1 R-2 R-3 R-4 PRD</b>	Freestanding – Subdivisions and Multifamily	2 / street entrance	5 ft.	32 sq. ft.
	Freestanding – Nonresidential use	1 / street entrance	16 ft.	32 sq. ft.
	Wall – Residential use	1 / building	No maximum	4 sq. ft., non-illuminated
<b>C-1</b>	Freestanding	1 / street frontage	24 ft.	½ sq. ft. / linear ft. of street frontage, not to exceed 100 sq. ft.
	Wall	1 / wall For lease spaces, 1 / wall of lease space	No maximum	15% of wall area (Includes canopy, awning, window, and door signs) A minimum of 25 sq. ft. of wall area permitted.
	Awnings	1 / lease space	No maximum	32 sq. ft. (Shall be deducted from the maximum allowable area of wall signs)
	Canopies	1 / canopy face	Fuel: 42" Other 2'	12 sq. ft. (Shall be deducted from maximum allowable area of wall signs.)
	Projecting or Suspended	1 / lease space	No maximum	Projecting: 40 sq. ft.; Suspended: 4 sq. ft.
<b>C-2  PUD I-1 I-2</b>	Freestanding	1 / street frontage		1 sq. ft. / linear ft. of street frontage, not to exceed 100 sq. ft.
	Wall	1 / wall For lease spaces, 1 / wall of lease space	No maximum	15% of wall area (Includes canopy, awning, window, and door signs) A minimum of 25 sq. ft. of wall area permitted.
	Awnings	1 / lease space	No maximum	32 sq. ft. (Shall be deducted from the maximum allowable area of wall signs)
	Canopies	1 / canopy face	Fuel: 42" Other 2'	12 sq. ft. (Shall be deducted from maximum allowable area of wall signs.)
	Marquee	1 / building	8 ft.	100 sq. ft.
	Projecting or Suspended	1 / lease space	No maximum	Projecting: 40 sq. ft.; Suspended: 4 sq. ft.

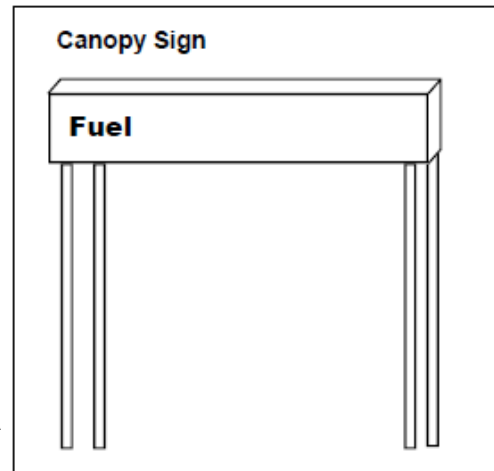
- B. Awning Signs.** An awning sign is a sign that is part of a fabric or other non-structural awning. Awning signs shall be permitted for nonresidential uses in the C-1, C-2, I-1 and I-2 zoning districts and for nonresidential zoning districts subject to the following regulations:

- 1. Placement.** The sign shall be flat against the surface of the awning.
- 2. Clearance.** The sign shall maintain a clearance of eight (8) feet above a public right-of-way (C-1, C-2, I-1 and I-2 zoning districts only) or front yard.
- 3. Setback.** The sign shall not be closer than two (2) feet, measured in horizontal distance, from the curb line of any street.
- 4. Right-of-way.** The sign shall not extend into the right-of-way (except C-1, C-2, I-1 and I-2 zoning districts).
- 5. Fabric awnings.** Any fabric awning valance may not extend more than 1 foot below the rigid mount of the awning.



- C. Canopy Signs.** A canopy sign is a sign on or attached to any overhead protective structure that is constructed in such a manner as to allow pedestrians and vehicles to pass under. Canopy signs shall be permitted in nonresidential zoning districts, subject to the following regulations.

- 1. All canopies.** In no case shall the sign extend beyond the vertical edge of the canopy to which it is attached.
- 2. Fuel canopies.** Signage for fuel canopies shall be limited to logo signs.

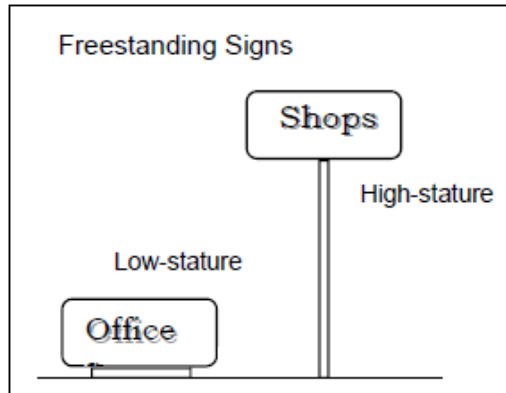


- D. Freestanding Signs – Nonresidential Districts.** A freestanding sign is a sign that is not attached to a building and is permanently attached to the ground. Freestanding signs shall be permitted in nonresidential zoning districts, subject to the following regulations:

- 1. Buffer areas.** The signs may be placed within the required buffer area or within other landscaped areas.
- 2. Sign setback.**

Condition	Min. setback from property line
Sign area of 32 sq. ft. or less	5 ft.
Sign area	10 ft.

more than 32 sq. ft.	
Sign adjacent to residential property	25 ft.



**3. Sign landscaping.** All non-residential signs require:

- (a) A defined landscaped area at the base of the sign.
- (b) The required landscaped area shall be parallel to the face[s] of the sign.
- (c) The required landscaped area shall be at least 50 square feet in area.
- (d) For signs with multiple faces, the landscaped area shall be allocated so that a portion of the required landscaping is located in front of each sign face.
- (e) If the size of the site imposes practical difficulties on the placement of the plant materials, the Building Department may make adjustments in these regulations.
- (f) The required landscaped area shall contain materials such as, but not limited to, vegetative ground covers, perennials, shrubs, and ornamental trees covering at least 50% of the defined landscaped area at maturity.
- (g) Paving and artificial plant materials shall not be included in fulfilling this requirement.
- (h) A plan of the landscaped area with the name, quantity, and spacing of plant materials shall be included as a part of the sign permit application.

**4. Additional signs.**

- (a) *Street frontage over 300 feet.* One (1) additional sign may be allowed by the Building Official or his or her designee for a street frontage that exceeds 300 feet. If two signs are placed on a single street frontage, no individual sign shall exceed 80 square feet in area and there shall be a minimum of 150 feet between the signs. The Code Official, in making a determination shall consider the approval standards found in Sec. 153.801.9 D.4(c) below. Each sign must meet all other regulations for free standing signs.

(b) *Medical facilities.* The Building Official or his or her designee may approve additional freestanding signs for medical facilities containing 250 beds or more, subject to the following regulations:

- i. The information contained on the sign must relate to medical facility services;
- ii. Each sign shall not exceed 12 feet in height and 50 square feet in area;
- iii. The number of signs allowed shall not exceed a ratio of 1 sign per 150 feet of medical facility property street frontage measured on the street on which the signs are to be located; and
- iv. All signs associated with the medical facility shall be approved as part of a common signage plan in conformance with the regulations of *Sec. 153.801.2 Common Signage Plan* prior to the issuance of any sign permits.

(c) *Considerations for approval of additional signs.* In making a determination to approve additional signs, the Building Official shall consider the following standards:

- i. The signs comply with other applicable provisions of the ordinance;
- ii. The views of adjacent properties or from adjacent properties are not impaired;
- iii. The signs do not interfere with public utilities, government uses, transportation, and landscaping;
- iv. The width of the street, the traffic volume, and the traffic speed warrant the proposed signage; and
- v. The signs do not pose a hazard to public safety.

## **5. Monument Signs.**

(a) *Maximum Sign Area.* The maximum sign area for a monument sign may be increased up to 20% of the maximum sign area allowed for a freestanding sign for the applicable zoning district; not to exceed 100 square feet.

(b) *Maximum Height.* 6 ft.

(c) *Materials.* The sign display area shall be completely enclosed with materials that match the façade of the principal use or similar quality, color and texture as the primary masonry materials used in the exterior finish of the primary structure on site.

(d) *Design.* The top of the sign display area shall be located a minimum of twelve (12) inches below the top of the sign structure. No air space shall be visible within or between any portion of the sign display area and sign structure.

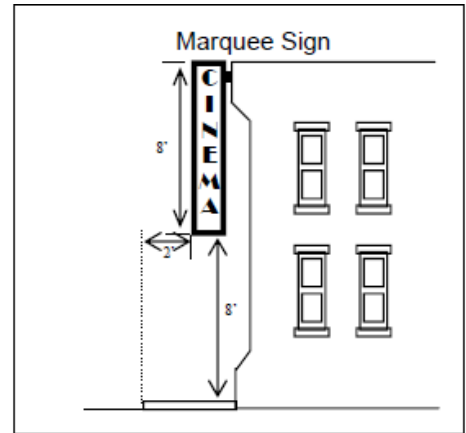
**E. Freestanding Signs – Residential Districts.** Freestanding signs to identify residential subdivisions, PUD's, or multifamily developments shall be permitted in all residential districts, subject to the following regulations:

1. *Subject.* No commercial message shall be placed on the identification sign.

2. *Permanent feature.* Identification signs shall be incorporated into a permanent landscape feature such as a wall, fence, or masonry column.

F. **Marquee Signs.** A marquee is a sign used to identify a theater or a sign projected over the entrance to a theater. Marquee signs shall be permitted in commercial zoning districts, subject to the following regulations:

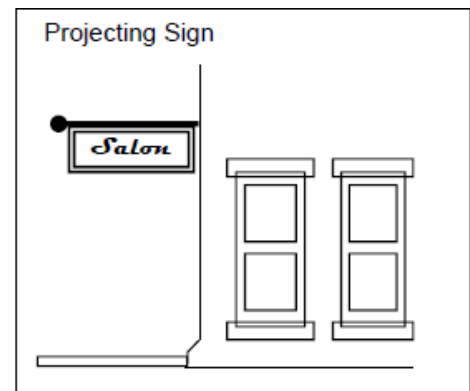
1. **Clearance.** The sign shall maintain a vertical clearance over a sidewalk of at least eight (8) feet.
2. **Setback.** No marquee sign may be closer than two (2) feet, measured in horizontal distance, from the curb line of any street.
3. **Length.** The sign may extend the full length of the marquee on theaters, auditoriums and assembly halls.



G. **Noncommercial Signs.** Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this ordinance. Noncommercial signs are subject to the same permit regulations, restrictions on size and type, and other conditions and specifications as apply to the sign for which they are being substituted.

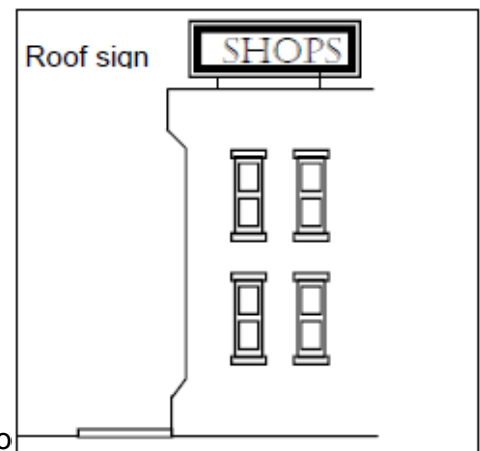
H. **Projecting Signs.** A projecting sign is a sign that forms an angle with the building that extends from the building and is supported by the building. Projecting signs shall be permitted in nonresidential zoning districts, subject to the following regulations:

1. **Extending above wall.** The sign may not extend above the top of the wall to which it is attached, except that a sign 18 inches or less in width and perpendicular to such wall may extend up to a maximum of two (2) feet beyond the top of the wall.
2. **Setback.** The sign may not extend into a required front yard more than six (6) feet and no closer than two (2) feet measured in horizontal distance from back of curb of any street.



I. **Roof Signs.** A roof sign is higher than the roof to which it is attached. Roof signs shall be permitted on buildings of three (3) stories or more in the Central Business District (C-1, C-2, I-1 or I-2 zoning districts). Multiple signs shall have uniform graphics or lettering styles.

J. **Suspended Signs.** A suspended sign is a sign attached to the underside of a horizontal plane or arm and is supported by the horizontal plane. Suspended signs shall be permitted



in all nonresidential zoning districts, subject to the following regulations:

1. **Clearance.** The sign shall allow an eight (8) foot clearance to the walking surface.
2. **Setback.** No sign shall be closer than two (2) feet measured, in horizontal distance, to the curb line of any street.

**K. Wall Signs - Nonresidential Districts** (Includes Window Signs). A wall sign is any sign, other than a projecting or suspended sign, that is attached to or painted on any wall of any building. Wall signs shall be permitted in nonresidential zoning districts, subject to the following regulations:

1. **Extending beyond building.** The sign shall not extend more than 12 inches beyond the building, except in the case of a sign on the lower slope of a roof or a canopy roof, where the sign may extend the distance required to make the sign vertical.
2. **Extending beyond wall.** The sign may not extend beyond the edges of the wall to which it is attached, except when the sign is contiguous on two (2) adjacent walls of the same building, the connecting portion may extend to but not beyond the face of the adjoining portion.
3. **Calculating sign area.** The total sign area for wall signs shall be the sum of all signs on the wall including signs on the wall surface, signs affixed to the wall parallel and in the same plane as the wall, signs on awnings or canopies, window signs, door signs, signs on the lower slopes of roofs or canopy roofs, and signs on parapets above roofs.

#### **SEC. 153.801.10 SIGNS PERMITTED WITH A TEMPORARY SIGN PERMIT**

**A. Special Sales Events and Promotions.** Temporary signs, such as banners, are those that are intended for a temporary use and are not permanently mounted. Temporary signs shall be permitted in all zoning districts for special sales events and promotions, subject to the following regulations:

1. **Maximum number permitted per event.** Only one (1) sign shall be allowed per business per special sales event or promotion.
2. **Display period.** The temporary sign shall be displayed for not more than 15 consecutive days.
3. **Maximum number permitted per year.** Each business site may be issued only four (4) permits for a temporary sign within a 12 month period. Each 12 month period shall begin with the issuance of the first permit and shall expire 12 months from that date. New businesses shall be permitted one additional special event sign per wall up to 6 consecutive months to announce the opening of the business, subject to the maximum area of 32 square feet per sign. Signs announcing employment opportunities for an on-site business shall be exempt from this requirement, subject to the maximum area of 32 square feet per sign.

#### **4. Banners.**

- (a) **Maximum area.** 32 square feet.
- (b) **Display location.** The temporary banner shall be attached to the building or a permanent freestanding sign.

#### **5. Freestanding.**

- (a) **Maximum area.** 6 square feet.
- (b) **Display location.** Private property and outside of the right-of-way and sight triangle.

6. **Subject.** The temporary sign shall be for a special sales event or promotion, not a routine business activity.
7. **Exception.** This section shall not affect signs regulated in *Sec. 153.801.7 Non-profit announcements* for public and non-profit events.
8. **Conformance with other regulations.** The temporary sign shall conform to the regulations for suspended signs, projecting signs or freestanding signs depending on the method of installation and support.

**B. Vertical Streetscape Banners.** Vertical streetscape banners placed along thoroughfares to enhance the visual aesthetics of the streetscape typically attached to a street light pole are permitted, subject to the following regulations:

1. **Locations.** Vertical streetscape banners may be located within locations as approved by City Council and local electric company.
2. **Applicants.** Eligible applicants include non-profit organizations, charitable, or civic organizations, to include but not limited, to an approved Tontitown Grape Festival and City of Tontitown.
3. **Subject.** Such signs shall be solely decorative, noncommercial or promote a special public or non-profit event and shall not display a logo, message, statement, or expression relating to commercial interests.
4. **Size.** Each banner shall not exceed a maximum size of 2 ½' in width and 5' in length.
5. **Attachment.** Each banner shall be individually attached to an existing pole, mast arm or other permanent structure. Any vertical streetscape banners proposed to be attached to a city street light shall be installed by the local electric company. No more than two banners, on opposing sides, may be mounted to each light pole.
6. **Display period.** Banners for events shall not be placed earlier than two weeks prior to the event and shall be removed within 3 days after the event. All other banners may remain in place for up to a year if they do not become torn, faded, loose or otherwise in disrepair.
7. **Multiple banners.** An overall signage plan shall be approved when multiple vertical streetscape banners are placed on a lot or street section. All banners on the same lot shall be consistent in terms of colors and materials used.

#### **SEC. 153.801.11 SIGNS NOT PERMITTED**

The following signs shall be prohibited, and may neither be erected nor maintained:

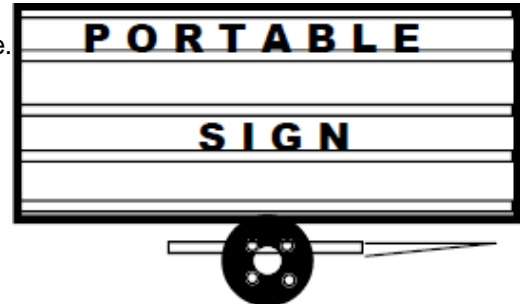
- A. **Fluctuating illumination.** Signs, or any means of advertising, with the illusion of movement by means of a preprogrammed repetitious sequential switching of action in which illuminated elements of the sign are turned off or on to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns. Illumination of attraction devices or signs that fluctuates in light intensity shall be prohibited. Signs that operate or employ any motion picture projection in conjunction with any advertisements shall be prohibited. Changeable copy shall be permitted so long as it is in compliance with Sec. 153.801.6.G.
- B. **Obsolete signs.** Obsolete signs or signs which have broken supports or are overgrown with vegetation.

- C. **Off-site signs.** Off-site signs are signs that direct attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located. Off-site signs include any sign which has been used as an off-site sign at any point after December 31, 2010.

*Exceptions.* This provision shall not prohibit the following signs:

1. Off-site signs that existed on or before December 31, 2010 in the City of Tontitown;
2. Off-site signs that are located along federal aid primary highways or interstate highways for which sign compensation is regulated by state and federal law;
3. Off-site signs that were erected and are permitted and maintained in compliance with state regulations and this ordinance; and
4. Off-site signs specifically permitted within this ordinance.

- D. **Portable signs.** Any sign not permanently attached to the ground or other permanent structure, including but not limited to signs: with attached wheels; converted to A- or T frame signs; menu and sandwich board signs; gas, air or hot air filled displays; and hand carried signs promoting a commercial interest.



- E. **Vehicle signs.** Signs attached to or painted on vehicles including automobiles, trucks, boats, campers, and trailers, which are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purpose of providing advertisement for products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time said vehicle is regularly and customarily used to traverse the public highways during the normal course of business. See Art. 153.601.1.H for regulations regarding commercial vehicles in residential zones.

F. **Rotating or revolving signs.**

- G. **Strung lights.** Lights strung across buildings or property, except those allowed under Sec. 153.801.7.G Holiday Lighting.

- H. **Windblown.** Fluttering, spinning, windblown or inflated devices including pennants, propeller discs, and balloons. Flags, other than governmental or corporate, are prohibited. *Exception:* Balloons shall be permitted for three (3) consecutive days for a grand opening event.

- I. **Others not exempt.** All other signs which are not expressly exempt from regulation and expressly permitted under this section.

**SEC. 153.801.12 ENFORCEMENT**

Code Enforcement Officers may remove the following signs that are in violation of this ordinance: yard sale signs, garage sale signs, rummage sale signs, moving sale signs, construction signs, real estate signs, political signs, banners and temporary signs, and directional signs for religious institutions.

**SEC. 153.801.13 SEVERABILITY**

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.

## APPENDIX A TABLE OF PERMITTED USES

**A=Accessory Use**  
**P=Permitted Use**  
**C=Conditional Use**

C=Conditional Use		AG	RES										COMM			IND				
	Supp. Regs.	A-1	RE	R1	R2	R3	R4			R-MH	R-ZL		C1	C2		I1	I2			
AGRICULTURE AND ANIMALS																				
Agriculture		P																		
Agricultural product processing		P														C	P			
Agriculture – related business		P														C	P			
Animal clinic	153.601.3	P											C	P		P	P			
Animal kennel or shelter	153.601.3	P												C		P	P			
Animal – domestic or household		P	P	P	P	P	P			P	P		P	P		P	P			
Animal – exotic		C																		
Animal – farm	153.601.3	P	C																	
Apiculture	153.601.4	P	A	A																
Botanical garden		P	C	C	C	C	C			C	C		P	P		P	P			
Chicken, hobby	153.601.11	P	P	A	A															
Community garden		P	P	P	P	P	P			P	P									
Greenhouse		P	P										C	P		P	P			
Livestock market		P															C			
Plant nursery		P												P		P	P			
Slaughterhouse		C															C			
Stable, commercial		P																		
RESIDENTIAL																				
Dwelling – accessory	153.601.4	A	A	A	A	A	A			A	A		A	A		A	A			
Dwelling – condominium					P	P	P													
Dwelling – manufactured										P										
Dwelling – modular		P	P	P	P	P	P			P	P									
Dwelling – multi-family						P	P													
Dwelling – single family		P	P	P	P	P	P			P	P									
Dwelling – townhouse or rowhouse					P	P	P													
Dwelling – two-family					P	P	P													
Home occupation – type a	153.601.12	P	P	P	P	P	P			P	P									
Home occupation – type b	153.601.12	C	C	C	C	C	C			C	C									
Manufactured home park										P										
Residential facility – assisted living						P	P			P	P		P	P						
Residential facility – extended medical care													P	P						
Residential facility – rehabilitation													P	C						
Residential facility – temporary shelter						P	P							P						

# APPENDIX A TABLE OF PERMITTED USES

		AG	RES										COMM			IND			
	Supp. Regs.	A-1	RE	R1	R2	R3	R4			R-MH	R-ZL		C1	C2		I1	I2		
RECREATION, EDUCATION & PUBLIC ASSEMBLY																			
Arena/auditorium		C												P		P	P		
Museum		C	C	C	C	C	C			C	C		P	P		P	P		
Aquarium		C	C	C	C	C	C			C	C		P	P					
Conference/convention center														P		P	P		
Community center	153.601.1	C	C	C	C	C	C			C	C		P	P		P	P		
Commercial recreation facility – indoor		C											C	P		C	P		
Commercial recreation facility – outdoor	153.601.8	C											C	C		C	C		
Country club		C	C	C	C	C	C			C	C								
Cultural studio													P	P					
Educational facility		C	C	C	C	C	C			C	C		C	C		C	C		
Golf course	153.601.8	P	C	C	C	C	C			C	C		C	C		C	C		
Library			P	P	P	P	P			P	P		P	P					
Park – mini		P	P	P	P	P	P			P	P		P	P		P	P		
Park – neighborhood		P	P	P	P	P					P		P	P		P	P		
Park – community		P	P										P	P		P	P		
Religious facilities	153.601.19	C	C	C	C	C	C			C	C		C	C		C	C		
Recreational vehicle park	153.601.17	P																	

<b>SERVICES</b>																		
ATM machine													P	P		P	P	
Adult day care		C	C	C	C	C	C			C	C		P	P		P	P	
Auction house													P	P				
Auto or equipment auction		C												P		P	P	
Automobile repair														P		P	P	
Car wash	153.601.6												C	P		P	P	
Cemetery or mausoleum		P	C	C	C	C	C			C	C		P	P		P	P	
Child care – commercial	153.601.7c	P	C	C	C	C	C			C	C		P	P		C	C	
Child care – residential (4 children)	153.601.7a	P	P	P	P	P	P			P	P		P	P		P	P	
Child care – residential (5-10 children)	153.601.7b																	
Copy services													P	P		P	P	
Correctional facility or jail		P														P	P	
Crematory														C		P	P	
Financial institution													P	P				
Funeral home													P	P				
Governmental service facility		P											P	P		P	P	
Lodging – bed & breakfast	153.601.5	C	C		C	C	C						C					
Lodging – hotel/motel														P				
Maintenance service													P	P		P	P	
Medical services – hospital	153.601.13													P				
Medical services – doctor office													P	P				
Medical services – urgent care clinic														P				
Medical services –laboratory														P		P	P	
Medical services – substance abuse or mental health treatment clinic														P				
Office – small scale (≤ 4,000 gsf)													P	P		P	P	
Office – large scale (> 4,000 gsf)														P		P	P	
Office/warehouse														P		P	P	
Personal services													P	P				
Public safety services		C	C	C	C	C	C			C	C		C	C		C	C	
Postal services													P	P		P	P	
Repair services – household													P	P		P	P	
Repair services – equipment, large appliances														P		P	P	

## APPENDIX A TABLE OF PERMITTED USES

		AG	RES										COMM			IND					
		Supp. Regs.	A-1	RE	R1	R2	R3	R4			R-MH	R-ZL		C1	C2		I1	I2			
RETAIL																					
Artisan shop														P	P						
Auto and vehicle sales/rental															P		P	P			
Bakery														P	P						
Bar, lounge or tavern														P	P						
Building and landscape material sales															P		P	P			
Construction/heavy equipment sales/rental															C		P	P			
Convenience store														P	P						
Equipment rental – indoor														P	P		P	P			
Equipment rental – outdoor															P		P	P			
Gas station														C	P		P	P			
Manufactured home sales																	P	P			
Recreational vehicle and boat sales/rental															P		P	P			
Outdoor vending, private property	153.601.16													P	P		P	P			
Outdoor vending, public right-of-way	153.601.16																				
Restaurant														C	P						
Restaurant, drive-in															P						
Retail – small scale (≤ 4,000 gsf)														P	P		P				
Retail – large scale (> 4,000 gsf)															P						
Sexually oriented business	153.601.22														C						
Sidewalk café in public right-of-way	153.601.23																				
INDUSTRIAL AND WAREHOUSING																					
Artisan/craft product manufacturing																	P	P			
Bulk storage of highly flammable material																		C			
Cold storage plant																	P	P			
Contractor maintenance yard															C		P	P			
Industrial – intensive																		P			
Industrial – light																	P	P			
Laboratory – dental or medical															P		P	P			
Laboratory – manufacturing																	P	P			
Laboratory – research															P		P	P			
Light fabrication and assembly process																	P	P			
Mining		C													C		C	C			
Mini-warehouse storage	153.601.14																P	P			
Taxidermy		P													P		P	P			
Salvage yard	153.601.20	C																C			
Warehousing or wholesaling																	P	P			

# **APPENDIX A** **TABLE OF PERMITTED USES**

		AG	RES										COMM			IND			
	Supp. Regs.	A-1	RE	R1	R2	R3	R4			R-MH	R-ZL		C1	C2		I1	I2		
TRANSPORTATION, COMMUNICATION & UTILITIE																			
Airport facilities		C											C	C		C	C		
Broadcasting studio														P					
Electric generating plant																	C		
Parking facility (as principal use)													C	P		P	P		
Sewage treatment plant	153.601.21	C															C		
Solar energy system	153.601.24	A	A	A	A	A	A			A	A		A	A		A	A		
Solid waste disposal		C															C		
Transportation facilities excluding airports														C		P	P		
Utility facility		C	C	C	C	C	C			C	C		C	C		C	C		
Wind energy system, small	153.601.26	A	A	A	A	A	A			A	A		A	A		A	A		
Wind energy system, large		C															C		
Wireless communication facility (cell towers)	153.601.27	C	C	C	C	C	C			C	C		C	C		C	C		
OTHER																			
Building, accessory – nonresidential	153.601.1	A	A	A	A	A	A			A	A		A	A		A	A		
Temporary used		C	C	C	C	C	C			C	C		C	C		C	C		

## Appendix B Flag Standards

### Excerpts from The Flag Code Title 4, United States Code, Chapter 1

#### §6. Time and occasions for display

(a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.

#### §7. Position and manner of display

(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy.

(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.

(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag's right.

#### §8. Respect for flag

(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

Flag Size and Flagpole Standards			
Home Use		Public Display (not home-use)	
Flagpole	Flag	Flagpole	Flag
15'	3'x5'	20'	4'x6'
20'	3'x5'	25'	5'x8'
25'	4'x6'	30' – 35'	6'x10'
		40' – 45'	6'x10' – 8'x12'
		50'	8'x12' – 10'x15'
		60' – 65'	10'x15' – 10'x19'
		70' – 80'	10'x19' – 12'x18'
		90' – 100'	20'x38' – 30'x50'