

ORDINANCE NO. 2013-04-417

AN ORDINANCE AMENDING THE CITY OF
TONTITOWN'S CODE SECTION 152 et. seq. and 153 et. seq.

WHEREAS, after due notice as required by law, the Tontitown Planning Commission has considered amendments to Tontitown Code Section 152 et. seq., and 153 et. seq.


WHEREAS, the City Council of Tontitown, Arkansas deems it necessary from time to time, to adjust certain standards for development, which are implemented for the purposes of promoting the health, safety, and general welfare of the citizens of Tontitown, Arkansas.

WHEREAS, the City Council has reviewed Code Section 152 et. seq. and 153 et. seq. and recommends the codification of this section.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS, that there is hereby established an amended Code Section 152 et. seq., and 153 et. seq., for the City of Tontitown, a copy of which is attached hereto and made part of this ordinance by reference. The attached Code Section 152 et. seq. and 153 et. seq., supersedes and prior code sections regarding zoning regulations within the City of Tontitown. Any prior regulations or code sections in conflict with the attached Code Section herein adopted are hereby repealed.


SECTION 1. It is intended that the latest version of the Code Section 152 et. seq. and 153 et. seq. to be all encompassing and to take precedent over the previous Code Section 152 and 153 and all subsequent amendments. The attached Code Section 152 et. seq. and 153 et. seq. is incorporated herein.

PASSED AND APPROVED THIS 2 DAY OF April, 2013.



Mayor of the City of Tontitown

ATTEST:



Recorder-Treasurer of City of Tontitown

SPONSOR:

CHAPTER 152: DEVELOPMENT AND SUBDIVISION REGULATIONS

Section

Article 152.100 General Provisions

- 152.100.01 Title
- 152.100.02 Authority
- 152.100.03 Purpose
- 152.100.04 Jurisdiction
- 152.100.05 Planning area map
- 152.100.06 Applicability
- 152.100.07 Exemptions
- 152.100.08 Approval required
- 152.100.09 Amendments
- 152.100.10 Conflicting regulations
- 152.100.11 Effective date
- 152.100.12 Severability
- 152.100.13 Abrogation and greater restriction
- 152.100.14 Non liability

Article 152.200 Definitions

- 152.200.01 Definitions

Article 152.300 Administration and Enforcement

- 152.300.01 Administration
- 152.300.02 Enforcement
- 152.300.03 Violation and penalty

152.300.04 Waivers

152.300.05 Vacation of plats

152.300.06 Vacation of street right-of-way, easements, or alleys

152.300.07 Appeals

152.300.08 Assurance of performance

152.300.09 Maintenance guarantee

152.300.10 Guarantees

152.300.11 Off-site performance guarantee

Article 152.400 Preliminary Plats

152.400.01 Applicability

152.400.02 Pre-application conference

152.400.03 Application for approval

152.400.04 Review and approval

152.400.05 Review criteria

152.400.06 Authorization to proceed

152.400.07 Expiration of preliminary plat approval

Article 152.500 Final Plats

152.500.01 Applicability

152.500.02 Application for final plat

152.500.03 Prior to Planning Commission

152.500.04 Review and approval

152.500.05 Inspections

152.500.06 Recording

152.500.07 Application for building permit

152.500.08 Criteria for substantial completion (non-bondable items)

152.500.09 Criteria for guarantees (bondable items)

Article 152.600 Incidental Subdivisions

152.600.01 Applicability

152.600.02 Application for approval

152.600.03 Review and approval

152.600.04 Recording

152.600.05 Review criteria

Article 152.700 Large Scale Developments

152.700.01 Applicability

152.700.02 Pre-application conference

152.700.03 Application for approval

152.700.04 Review and approval

152.700.05 Review criteria

152.700.06 Adjustment and alterations

152.700.07 Expiration and extension of approval

152.700.08 Appeals

152.700.09 Application for building permit

152.700.10 Final inspection

Article 152.800 Plat and Plan Requirements

152.800.01 Items to be shown on plat or included in a plan

152.800.02 Certificates

152.800.03 Waiver

Article 152.900 Minimum Survey Standards

152.900.01 General requirements

152.900.02 Horizontal control standards

152.900.03 Vertical control standards

152.900.04 Monumentation

Article 152.1000 Design Standards

152.1000.01 Adoption of Development and Subdivision Regulations

Article 152.1100 Improvements

152.1100.01 General provisions

152.1100.02 Determining necessity for off-site improvements

152.1100.03 Fee in-lieu for delayed improvements

152.1100.04 Waivers

152.1100.05 Off-site improvements to state highways and highways maintained by the State Highway and Transportation Department

152.1100.06 Performance guarantees

Article 152.1200 Tree Preservation and Protection

152.1200.01 Purpose

152.1200.02 Objectives

152.1200.03 Administration and appeals

152.1200.04 Tree planting, maintenance and removal

152.1200.05 Penalty

152.1200.06 Stop work order

152.1200.07 Severability

Article 152.1300 Landscaping, Screening and Buffering

152.1300.01 Purpose

152.1300.02 Objectives

152.1300.03 Applicability

152.1300.04 Exemptions

152.1300.05 General provisions

- 152.1300.06 Landscape plans
- 152.1300.07 Landscaped street frontage buffer
- 152.1300.08 Interior parking lot landscaping
- 152.1300.09 Landscaped perimeter
- 152.1300.10 Residential landscaping
- 152.1300.11 Landscape installation requirements
- 152.1300.12 Recommended trees and shrubs
- 152.1300.13 Tree preservation credits
- 152.1300.14 Enforcement and maintenance
- 152.1300.15 Alternative methods of compliance
- 152.1300.16 Screening
- 152.1300.17 Fence and wall requirements
- 152.1300.18 Landscaping for wireless communication facilities (WFF)

Article 152.1400 Flood Damage Prevention

- 152.1400.01 Statutory authority
- 152.1400.02 Findings of fact
- 152.1400.03 Statement of purpose
- 152.1400.04 Lands to which this subchapter applies
- 152.1400.05 Methods of reducing flood losses
- 152.1400.06 Flood Damage Prevention Code adopted by reference
- 152.1400.07 Abrogation and greater restrictions
- 152.1400.08 Interpretation
- 152.1400.09 Warning and disclaimer of liability
- 152.1400.10 Compliance
- 152.1400.11 Penalty for non-compliance

152.1400.12 Severability

152.1400.13 Fees

152.1400.14 Permits

Article 152.1500 Addressing

152.1500.01 Purpose

152.1500.02 Street address map

152.1500.03 Centerlines

152.1500.04 Street names

152.1500.05 Address numbers

152.1500.06 Signs, numbers and system maintenance

ARTICLE 152.100 GENERAL PROVISIONS

§ 152.100.01 TITLE.

These regulations shall officially be known, cited and referred to as the “Subdivision Regulations of the City of Tontitown, Arkansas”, hereinafter referred to as “these regulations”, and shall apply to the areas outlined on the official Planning area map of the city. (as adopted and recorded at the office of the Washington County Circuit Clerk in its most recent version).

§ 152.100.02 AUTHORITY.

- (A) These regulations govern the subdividing and developing of land within the corporate limits and the planning area boundary, herein after referred to as “the planning area”, within the territorial jurisdiction of the city, and are adopted in accordance with the provisions of Arkansas Code Annotated §§ 14-56-401 through 14-56-426.
- (B) By authority of the ordinance establishing the Planning Commission, adopted pursuant to the powers and jurisdictions vested through applicable state statutes, the Planning Commission does hereby exercise the power and authority to review, approve, and disapprove plats for the subdivision of land within the Planning area jurisdiction which shows lots, blocks, or sites with or without new streets.
- (C) By the same authority, the Planning Commission does hereby exercise the power and authority to pass and approve the development of platted subdivisions of land already recorded in the office of the Washington County Circuit Clerk, if such plats are already platted and undeveloped, with no improvements.

- (D) The plat shall be considered to be entirely or partially undeveloped, if:
- (1) Such plat has been recorded with the County Circuit Clerk's office after the effective date of these regulations without a prior approval by the Planning Commission;
 - (2) Such plat has been approved by the Planning Commission where the approval has been granted:
 - (a) More than three years prior to the granting of a building permit on the partially or entirely undeveloped land; and
 - (b) The zoning ordinance, either bulk or use, for the district in which the subdivision is located, has been changed subsequent to the original final approval.

§ 152.100.03 PURPOSE.

- (A) These regulations are formulated to promote safety, public health, and the general welfare of the citizens of the city and its planning area.
- (B) The purpose of these regulations is to provide for the harmonious development of the city and the coordination of streets and other public utility improvements within subdivisions with existing or planned improvements or other features of the all adopted plans of the city, including the Master Street Plan and the Land Use Plan.
- (C) These regulations and standards for the subdivision and improvement of land for urban use are designed to make provision for adequate air, open space, drainage, transportation, public utilities, and other needs, and to ensure the development and maintenance of a healthy, attractive, and efficient community that provides for the conservation and protection of its human and natural resources.
- (D) These regulations are intended to set forth the procedures, requirements, and minimum standards governing the subdivision of land within the planning area of the city, and should be administered in a manner:
- (1) To assist the orderly, efficient, and coordinated development of land within the planning area of the city in accord with its adopted Land Use Plan, Master Street Plan, and Zoning Ordinance.
 - (2) To promote the health, safety, and general welfare of the residents of the city.
 - (3) To ensure conformance of subdivision plans with public improvement plans for the city and its environs.
 - (4) To protect and conserve the value of land, buildings and improvements and to minimize adverse impact on adjoining or nearby properties.
 - (5) To establish a beneficial relationship between the uses of land and buildings and the municipal street system to require proper location and design of streets and building lines, to minimize traffic congestion, and to make adequate provision for pedestrian traffic circulation.

- (6) To establish reasonable standards of design and procedures for subdivision and re-subdivision to further the orderly development and use of land and to ensure proper standards and requirements for legal descriptions and monumentation of subdivided lands as prescribed by ordinance 152.2006-12-280.
- (7) To encourage the wise use and management of natural resources and to provide adequate and safe recreational areas of natural beauty and topography within the community.
- (8) To provide for adequate provisions for transportation, water, fire protection, sanitary sewer, drainage, and other public requirements.
- (9) To provide for proper ingress egress, and street connectivity to properties and neighborhoods.
- (10) To guide the future growth and development of the city in accordance with the Land Use Plan and the Master Street Plan.
- (11) To assist orderly, efficient and integrated development within the city's planning area.
- (12) To promote sound development through utilization of good design principles.
- (13) To facilitate the further re-subdivision of large tracts into smaller parcels, or replatting existing subdivisions.
- (14) To secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance both by developers and the Planning Commission.

§ 152.100.04 JURISDICTION.

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

§ 152.100.05 PLANNING AREA MAP.

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

§ 152.100.06 APPLICABILITY.

It is the policy of the city to consider the subdivision of land and the subsequent development of subdivided plat as subject to the control of the city pursuant to plans of the city, primarily the Land Use

Plan and Master Street Plan of the city, for orderly planning and efficient development of the city and the planning area. These regulations and development standards shall apply to the following forms of land subdivision and development:

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

§ 152.100.07 EXEMPTIONS.

- (A) *Street widening*. These regulations and development standards shall not apply to the public acquisition by purchase or dedication of parcels of land for the widening or opening of streets or for other improvements.
- (B) *Horizontal property regime*. These regulations and development standards shall not apply to any horizontal property regime within any lot for which the same documentation as required by state statute to be filed with the county for the establishment of that horizontal property regime shall have been filed with and approved by the city; and where all buildings within that lot shall have been built to meet the fire separation requirements of the city between units, as defined in the Horizontal Property Act of the state.

§ 152.100.08 APPROVAL REQUIRED.

No subdivider proposing to make or having made a subdivision within the planning area of the city shall proceed with any construction work on the proposed subdivision prior to obtaining approval, and shall not convey title to any lot or lots before obtaining from the Planning Commission a certificate of final plat approval and the acceptance and filing of said plat with the Washington County Circuit Clerk.

§ 152.100.09 AMENDMENTS.

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

§ 152.100.10 CONFLICTING REGULATIONS.

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

§ 152.100.11 EFFECTIVE DATE.

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

§ 152.100.12 SEVERABILITY.

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

§ 152.100.13 ABROGATION AND GREATER RESTRICTION.

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

§ 152.100.14 NON LIABILITY.

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

ARTICLE 152.200 DEFINITIONS

§ 152.200.01 DEFINITIONS.

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

AASHTO. American Association of State Highway and Transportation Officials.

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

ACCESS. The way or means by which a piece of property is approached or entered.

ACCESS EASEMENT. An easement granted by an owner of land to provide access to a lot or parcel not fronting a street or roadway.

ADA. Americans with Disabilities Act.

AGENT (OF CITY). Person with delegated authority for a specific purpose.

AHTD. Arkansas State Highway and Transportation Department.

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

APPROVAL, CONDITIONAL. Approval of a plan, plat, or activity by the Commission subject to performance by the applicant of certain stipulated conditions.

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

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

BOND. Any form of security including a cash deposit, surety bond or instrument of credit in an amount and form satisfactory to the city.

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

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

BUILDING LINE. A line parallel to a lot line establishing an area between it and the lot line where no portion of the building may be erected.

BUILDING SETBACKS. See Setbacks.

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

CERTIFICATE OF COMPLETION OF IMPROVEMENTS. A statement by a developer's engineer of record certifying that all improvements and installations are complete and built in conformance with the city's specifications and this subdivision regulation.

CIRCUIT CLERK. The Washington County Circuit Clerk.

CITY. The City of Tontitown, Arkansas.

CITY STAFF. Employees and designees of the City of Tontitown.

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

CITY LIMITS. The limits of the land area occupied by, and under jurisdiction of the City of Tontitown.

COMMENCEMENT OF CONSTRUCTION. Any clearing of the land, excavation, construction, or other substantial action that would adversely affect the natural environment of the site.

COMMISSION. The Planning Commission of the City of Tontitown, Arkansas.

COMPLETION DATE OF PROJECT. A date established by agreement between the planning commission and applicant as reached at time of preliminary plat approval.

COUNCIL. The City Council of the City of Tontitown, Arkansas.

COUNTY. Washington County, Arkansas.

COVENANT. A provision in a deed limiting the use of the property and prohibiting certain uses.

CUL-DE-SAC. A street with only one outlet and being permanently terminated within the plat by a vehicular turnaround.

DBH. Diameter at Breast Height.

DEAD END STREET. A street having one end open to traffic and being permanently or temporarily terminated at the opposite end.

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

DEED. A legal document conveying ownership of real property.

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

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

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

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

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

DRAINAGE EASEMENT. An easement providing for the flow and removal of surface water across a property.

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

EGRESS. A means of exit from a property to a public street.

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

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency that, in addition to carrying out other activities, oversees the administration of the National Flood Insurance Program.

FIRE APPARATUS ROAD. A roadway provided for use by emergency and fire vehicles to access a subdivision from a main artery. Full specifications are provided in the Arkansas Fire Prevention Code.

FIRE CHIEF. The appointed official of the City of Tontitown responsible for all functions of the Tontitown Fire Department.

FIRE MARSHAL. The Tontitown Fire Chief or his designee, responsible for enforcement of the adopted Fire Prevention Code.

FINAL PLAT APPROVAL. Approval of a plat that is in conformance with the preliminary plat along with all required financial guarantees.

FIRM. Flood Insurance Rate Map.

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

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

FRONTAGE ROAD. A street, parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.

FUNCTIONAL CLASSIFICATION SYSTEM. The process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide. (FWHA)

HEALTH DEPARTMENT. The Washington County Health Department and/or Arkansas State Health Department.

HIGHWAY DEPARTMENT, STATE. The Arkansas State Highway and Transportation Department.

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

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

HOUSING CODE. Part of the technical codes adopted by the City of Tontitown.

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

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

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

INTERNATIONAL FIRE CODE. This title is used synonymously with the Arkansas Fire Prevention Code.

INGRESS. A means of entrance to a property from a city street.

IRREVOCABLE LETTER OF CREDIT. A legal financial instrument in the form approved by the City of Tontitown. The instrument gives the right to a dollar amount to the city to guarantee construction or maintenance of improvements in a subdivision.

LAND SURVEYOR. An individual licensed to practice land surveying in the State of Arkansas.

LAND USE PLAN. A written plan with goals and objectives along with a map depicting and describing present land uses and future land uses expected in the city. This plan is approved by the City Council.

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

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

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

LOT, DOUBLE FRONTAGE. A lot that runs through a block from street to street and having frontage on two non-intersecting streets.

LOT, REVERSE FRONTAGE. A double frontage lot that is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

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

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

MASTER STREET PLAN. The plan made and adopted by the Planning Commission and accepted by the City Council classifying certain streets within the planning area as arterial or collector streets.

NWARPC. The Northwest Arkansas Regional Planning Commission.

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

ONE HUNDRED (100)-YEAR FLOOD. A flood with 1% chance of occurring in any year. The term is misleading because of its statistical derivation. A “100 year flood” may occur many times in any given 100-year period, or it may not occur at all in 100-years.

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

PARCEL. A division of land in contiguous ownership.

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

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

PEDESTRIAN ACCOMMODATION. To provide continuous pedestrian travel, segregated from vehicular traffic, within the subdivision and the subdivision boundary.

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

PLANNING AREA, MAP or BOUNDARY. The area within the city's territorial jurisdiction for which the planning commission has determined it will prepare plans and recommend ordinances and regulations; same being the Tontitown planning area. The planning area shall be the area in which provisions of Tontitown's Subdivision Regulations shall apply.

PLANNING COMMISSION. The Planning Commission of the City of Tontitown.

PLANNING OFFICIAL. The staff person having overall responsibility for administering these regulations.

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

PLAT, CORRECTION. A correction to an existing plat that is necessary due to an incorrect legal description or scribner errors.

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

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

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

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

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

PROPERTY LINE ADJUSTMENT. A transfer or adjustment of a property line that does not create a separate, new lot. A property line adjustment may or may not dedicate right-of-way or utility easements.

PROTECTIVE COVENANTS. Property restrictions established by the subdivider and recorded with the Final Plat of the subdivision.

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

QUORUM COURT. The Washington County Quorum Court (13 Justices of Peace elected by district).

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

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

RETENTION POND. A stormwater management facility designed to protect against flooding and, in some cases, downstream erosion by storing additional water in the form of stormwater runoff for a limited period of time.

- (1) Additional water stored by a detention pond is subsequently released at a controlled rate equal to or less than the pre-development runoff rate that the facility is designed to maintain.
- (2) A retention pond is designed to retain water at all times and is sometimes referred to as a “wet” detention pond.

RIGHT-OF-WAY. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat. Every right-of-way is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots. Rights-of-way intended for streets, trails, water mains, sanitary sewers, storm drains, or

any other use involving maintenance by a public agency or utility company, shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

SETBACKS, BUILDING. Lines imposed on each lot or parcel where the placement of structures is restricted.

SKETCH PLANS. See Plats, Sketch.

STAFF. Employees and designees of the City of Tontitown.

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

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

STREET, EXISTING. Any street that has a minimum width of 18 feet of hard surfaced material. Gravel roads or roads which are in extremely poor condition will not qualify as an existing street for purposes of this regulation.

STREET WIDTH. The width of the street used for traffic or when curbs are used the distance from back of curb to back of curb.

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

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

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

SUBDIVISION, MINOR. A subdivision of land into five or less lots, parcels or other divisions.

SURVEYOR. See Land Surveyor.

SWALE, DRAINAGE. A shallow trough-like depression that carries water mainly during rainstorms.

TERRITORIAL JURISDICTION. The territory surrounding the city, as defined in state planning statutes, within which the city's planning area is constrained.

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

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

USGS. United States Geological Survey.

UTILITY EASEMENT. A grant by a property owner or trustee for the use by the public, a corporation, or certain persons of a described area of land by public or private utilities.

VARIANCE. An official dispensation to act contrary to a zoning regulation.

VACATION. Legal abandonment of a platted street right-of-way or easement.

VERTICAL DATUM. Used to measure heights given on maps. The starting point for measuring these heights are Mean Sea Level points established at coastal places.

WAIVER. Permission from the Planning Commission to depart from certain requirements herein.

WATERCOURSE (WET OR DRY). A running stream of water having a bed and banks; or the easement one may have in the flowing of such a stream in its accustomed course. A watercourse may sometimes be dry.

ZONING ORDINANCE. Laws that control the use of land within the city.

ARTICLE 152.300 ADMINISTRATION AND ENFORCEMENT

§ 152.300.01 ADMINISTRATION.

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

regulations adopted by the City Council, and any regulations or special requirements of the State Health Department, State Highway and Transportation Department, or other appropriate state agencies.

§ 152.300.02 ENFORCEMENT.

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

- (b) Where the lot for which the administrative permit or services sought lies within a subdivision that was located in the planning area boundary, but outside the city limits at the time of filing.
- (4) The issuance of any building permit does not constitute acceptance of or intent by the city to accept any streets providing access to the lot on which the permit is issued.

§ 152.300.03 VIOLATION AND PENALTY.

(A) *Procedures.*

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

(B) *Penalties.*

- (1) Any person, firm or corporation that violates any provision of these regulations or amendments thereto shall be guilty of a misdemeanor and on conviction shall be fined not less than \$50 nor more than \$250 for each offense.
- (2) Each day that any violation of these rules and regulations are in effect shall constitute a separate offense and be subject to additional fines.
- (3) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premise, and these remedies shall be in addition to the monetary penalties described above.

§ 152.300.04 WAIVERS.

(A) *General.*

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

(B) *Procedures.*

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

§ 152.300.05 VACATION OF PLATS.

(A) *Vacation prior to lots being sold.* Any plat or any part of a plat may be vacated by the owner of the premises at any time before the sale of any lot therein by written instrument to which a copy of such plat shall be attached declaring the same to be vacated. Vacation of a plat shall be subject to the approval of the City Council if the plat is located within the corporate limits. It will be subject to Quorum Court approval if located outside the corporate limits, but within the planning area.

(B) *Approval by Planning Commission.* Such an instrument shall be approved by the Planning Commission with the same plat submission requirements, review processes and fees as are required for plats of subdivisions. Between the preliminary plat and the final plat, the Planning Commission will be afforded the opportunity for review and may reject any such plat that destroys public rights in any of its public uses, improvements, streets or alleys.

(C) *Filing and recording.* Such an instrument shall be executed, acknowledged or approved and recorded or filed in like manner as plats of subdivisions. Being duly recorded or filed shall operate to destroy the force and effect of the recording of the original plat so vacated and to divest all public rights in the streets, alleys, and public grounds and all dedications laid out or described in such plat.

(D) *Vacation, after lots are sold.* When lots have been sold, the plat may be vacated in a manner herein provided by all the owners of lots in such plat joining in the execution of such writings.

§ 152.300.06 VACATION OF STREET RIGHT-OF-WAY, EASEMENTS, OR ALLEYS.

(A) *Application for easement/alley vacation.* The application shall be submitted to city staff pursuant to the filing schedule approved by the planning commission and shall consist of the following:

- (1) *Application.* Completed and signed application form as provided by the appropriate city official or city staff.
- (2) *Fee.* Pay the filing fee specified in the application forms.
- (3) *Petition.* A petition to vacate street right-of-way, alley or easement.
- (4) *Consent for property owners.* Written consent of all property owners abutting the street right-of-way, alley or easement to be vacated.
- (5) *Ownership.* Proof of ownership of all property abutting the street right-of-way, alley or easement to be vacated.
- (6) *Consent from utilities.* Written consent from all utilities affected by street right-of-way, alley or easement to be vacated.

(B) *Review and approval.* The appropriate city staff will review the request and recommend approval or denial of the request for a vacation. The City Council shall make the final determination on approval of vacations by adopting an ordinance stating that the legal description as provided by the applicant, and verified by the city, is vacated.

§ 152.300.07 APPEALS.

Appeals of interpretations of the subdivision regulations may be made to the city Planning Commission.

§ 152.300.08 ASSURANCE OF PERFORMANCE.

(A) When the owner/developer requests final plat approval under the requirements contained in § 152.500.01(B) (Improvements Substantially Complete), the owner/developer shall enter into an agreement with the city to guarantee installation or ensure the completion of improvements.

(B) The Planning Commission may accept the subdivision and issue a certificate of final plat approval subject to all requirements of these regulations, and upon providing one of the following guarantee requirements or financial instruments:

(1) Cash deposit.

(a) The subdivider may provide a cashier's check in the amount as determined by the engineer-of-record and agreed upon by the city's Engineer and Planning Commission at 125% of the estimated amount to complete the improvements and installations to comply with these rules and regulations.

(b) The check shall be cashed one year from date of approval unless improvements are completed.

(c) For improvement completion that takes over one year, an extension must be approved by the Planning Commission if found reasonable.

(d) If the extension is not approved, the check amount, in full, will be payable to the city at the end of the year.

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

(a) The letter of credit will be for an amount equal to 125% of the estimated cost for improvements as determined by the engineer-of-record and agreed upon by the City Engineer and Planning Commission.

(b) The letter of credit will be irrevocable and will list the city as the sole beneficiary.

(c) The letter of credit will be in a form approved by the City Attorney.

(d) The city, as the sole beneficiary, shall be entitled to payment upon making demand for payment under the terms of the letter of credit in the event the subdivider is in default. Further, the city shall be entitled to use all of the money secured by the letter of credit to assure the cost of completion of the work in the subdivision.

(e) The subdivider will not be entitled to any excess monies until the work in the subdivision has been completed.

(f) The terms of the letter of credit shall be limited to a time specified, not to exceed one year, unless extension is granted by the Planning Commission. If the extension is not approved, the amount of the letter of credit shall be payable in full to the city.

(g) The letter of credit extension shall provide all costs incurred by the project and related inflation costs.

§ 152.300.09 MAINTENANCE GUARANTEE.

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

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

(a) It must be in an amount of 25% of the value of the donated assets. The value of the donated assets shall be as estimated by the engineer-of-record and agreed upon by the Planning Commission.

(b) It must be irrevocable and shall list the city as sole beneficiary.

(c) It must be in a form approved by the City Attorney.

(d) It must run for no less than one year.

(e) At the end of one year, if the improvements have not been adequately maintained, as determined by the city staff after consultation with the city's engineer, the city shall be entitled to payment upon making demand for payment under the terms of the maintenance bond, cash deposit or letter of credit. The city shall be entitled to use all of the money secured by the maintenance bond, cash deposit or letter of credit to assure the proper maintenance of the improvement.

(f) The subdivider shall not be entitled to any excess monies until the maintenance of the improvements in the subdivision has been satisfactorily completed.

(2) *Performance bond.*

(a) If a performance bond is posted to assure completion of the improvements, that performance bond must also include provisions that automatically convert it to a maintenance bond upon completion of the improvements or on the date the performance bond lapses, whichever comes first.

(b) Such maintenance bond shall meet all the conditions in certificate of completion of Improvements listed in § 152.300.09(A)(1) above.

(3) *Cash deposit.*

(a) If a cashier's check is provided to assure completion of the improvements, that cashier's check shall be cashed upon completion of the improvements or one year from submittal, whichever comes first.

(b) Upon completion of the improvements, a sum in the amount of 25% of the value of donated assets shall be held by the city for a period of one year to assure proper maintenance. Any amount above this sum shall be returned to the provider of the cashier's check.

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

(4) *Irrevocable letter of credit.*

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

(b) Such maintenance letter of credit shall meet all conditions in certificate of completion of improvements, § 152.300.09(A).

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

§ 152.300.10 GUARANTEES.

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

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

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

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

(1) Construct the remaining improvements using the amount of the cashier's check. Any balance remaining after the improvements have been constructed shall be returned to the owner/developer. The owner/developer shall be liable for any cost exceeding the amount of the cashier's check; or,

(2) Continue to hold the funds until the owner/developer completes the required improvements.

(D) *Release of guarantee.*

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

(2) *Final inspection.* The City Engineer shall conduct a final inspection of remaining guaranteed items. The final inspection must be approved prior to releasing the guarantee.

(3) *Guarantee released.* When the guarantee is released, the city shall reimburse the owner/developer for the amount of the cashier's check.

§ 152.300.11 OFF-SITE PERFORMANCE GUARANTEE.

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

(A) *Amount.* The owner/developer shall provide a letter of credit or a cashier's check to the city for an amount of 100% of the total estimated cost for improvements within the public right-of-way and any off-site improvements. The cost estimate shall be prepared by the owner/developer's engineer of-record and approved by the Building Official or his or her designee(s).

(B) *Term.* The term of the performance guarantee shall be agreed to in writing by the owner/developer's engineer-of-record and by the Building Official or his or her designee(s).

(C) *Letter of Credit Standards.* Performance guarantee letter of credits shall be irrevocable and shall list the City of Tontitown as the beneficiary. The letter of credit shall be in a format as provided by the city or as approved by the Staff Attorney or his or her designee.

(D) *Cashier's check.* The cashier's check will be deposited immediately.

(E) *City action.* Prior to expiration of the term agreed to in division (B) above, the city shall inspect the improvements. If the improvements are not complete to the city's satisfaction, the owner/developer or engineer of record may request in writing an extension. If the city does not agree to the extension, the city may construct the remaining improvements using the amount of the cashier's check or letter of credit. If the improvements are complete, the city shall release the performance guarantee in accordance with division (H).

(F) *Excess monies.* The owner/developer shall not be entitled to any excess monies until the off-site improvement has been completed and the performance guarantee is released in accordance with division (H).

(G) *Excess costs.* The owner/developer shall be liable for any cost exceeding the amount of the cashier's check or letter of credit.

(H) *Release of performance guarantee.*

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

(2) *Final inspection.* The City Engineer or his or her designee(s) shall conduct a final inspection of the off-site improvement. The final inspection must be approved prior to releasing the performance guarantee.

(3) *Guarantee released.* The performance guarantee is released and the city shall reimburse the owner/developer for the amount of the cashier's check or return the letter of credit to the owner/developer.

ARTICLE 152.400 PRELIMINARY PLATS

§ 152.400.01 APPLICABILITY.

(A) Any owner of land within the planning area boundary of the city seeking to subdivide property shall not proceed with any construction work on the proposed subdivision before obtaining preliminary plat approval nor shall the owner attempt to record the plat of the subdivision or any part thereof, including conveyance of title to any lot, prior to obtaining final plat approval from the Planning Commission.

(B) The conditions above shall also apply to lot splits and minor subdivisions, as defined in § 152.600.01(B).

§ 152.400.02 PRE-APPLICATION CONFERENCE.

(A) *Purpose.* The purpose and intent of the pre-application conference is to afford the subdivider an opportunity to obtain the advice of the Planning Commission, the City Council, or their designee in order to avoid unnecessary costs and delays to the subdivider and to give informal guidance to the development at a stage where potential points of conflict or differences can be readily resolved.

(B) *Optional.* When the owner of a tract of land proposes its subdivision, the subdivider is urged to discuss informally the intent of his subdivision with the Planning Commission, the City Council, or their designee.

(C) *Fees.* Fees shall be collected for a pre-application conference as outlined un codes section 155, its purpose being to acquaint the subdivider with plans and policies in effect that may be significant to his proposed subdivision.

(D) *Sketch plans.* The subdivider shall submit sketch plans and data showing existing conditions within the site and its vicinity and the proposed layout and development of the proposed subdivision. The sketch plan shall include the following information, all of which may be based on sources of information other than field survey data:

(1) The location of the tract in relation to the surrounding area.

(2) The total acreage in the proposed subdivision.

- (3) All existing streets, roads, wet and dry watercourses, and other significant features of the tract within 500 feet thereof.
- (4) Approximate location of proposed streets and property lines.
- (5) An accurate sketch of the proposed site plan.
- (6) A north arrow and graphic scale.
- (7) Direction of and approximate distance to nearest existing major street intersection.
- (8) Existing utilities and easements, if any.
- (9) Proposed land use descriptions.
- (10) Existing adjacent development.
- (11) Existing easement and covenants affecting the tract or parcel.
- (12) Any additional information the developer wishes to provide to give greater clarification and understanding of the development and its proposed use.

(E) *Discussion.* At the pre-application conference, the general character of the development will be discussed and items including zoning, utility services, street requirements, flooding and drainage, and other pertinent factors related to the proposed development will be reviewed. Discussions at the pre-application conference shall not imply any approval of subsequent preliminary or final plat approval, rather to serve as an exchange of information.

§ 152.400.03 APPLICATION FOR APPROVAL.

(A) The application shall be submitted to the City Council's designee pursuant to the Tontitown Development Calendar and shall consist of the following:

- (1) *Application.* A letter of intent along with a completed application form, as provided by the Planning Commission or the City Council's designee.
- (2) *Fee.* Payment of the filing fee as specified in the application or schedule of fees.
- (3) *Preliminary plat.* The number of copies of the preliminary plat as indicated on the application packet that includes all the requirements for a preliminary plat indicated in Article 152.800, (Plat and Plan Requirements). The preliminary plat shall be drawn clearly and legibly at a scale not smaller than one-inch = 100 feet. A digital copy will be required after approval.
- (4) *Drainage report.* Submit drainage report, grading plan and erosion control plan. Drainage report shall be completed by a professional engineer and demonstrate compliance with city stormwater requirements.
- (5) *Deed.* Copy of warranty deed showing ownership of property.

(6) *Recorded plat.* Copy of recorded plat of existing development, if any.

§ 152.400.04 REVIEW AND APPROVAL.

(A) Administrative review and approval.

(1) The City Council's designee and other appropriate city and public agency staff shall review the proposed subdivision for conformance with these regulations.

(2) In its review, the City Council's designee shall take into consideration the requirements of the community and the use of the land being subdivided and may offer suggestions concerning changes needed that would enable the project to meet the purpose and intent of the subdivision regulations.

(3) Particular attention shall be given to width, arrangement and location of streets, utility easements, drainage, lot sizes and arrangements and other facilities such as parks, playgrounds or school sites, public buildings, parking areas, and the relationship of the proposed subdivision to adjoining, existing, proposed and possible subdivision of lands.

(4) Comments will be sought from county officials who may provide recommendations as applicable to development within the planning area but outside the city limits.

(B) Other city departments. The City Council's designee may distribute copies of the preliminary plat to other city departments and officials with the request that its recommendations for either approval or disapproval be provided in writing. Such recommendations shall be given to the Planning Commission.

(C) Planning Commission Action.

(1) *Changes or additions.* After the Planning Commission has reviewed the preliminary plat and taken into account any staff recommendation, the applicant shall be advised of any required changes and/or additions.

(2) *Action.* The Planning Commission shall approve, approve conditionally, or disapprove the preliminary plat within 120 days from the date of receipt thereof or the preliminary plat shall be deemed approved unless the subdivider stipulates in writing to the Planning Commission that additional time is allowed. If disapproved, the preliminary plat shall be returned to the subdivider with a written statement as to the reasons for disapproval.

(3) Disapproval.

(a) A disapproved preliminary plat may be resubmitted. The plat shall be submitted for review as outlined in this regulation for an original preliminary plat submission.

(b) The City Council's designee may forego those steps in the review process of a resubmitted plat found to be entirely repetitive of the disapproved plat.

§ 152.400.05 REVIEW CRITERIA.

The preliminary plat may be approved by the Planning Commission when the applicant has provided clear and convincing evidence that:

(A) *Water.* Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, fire protection, and quality to provide an appropriate supply of water for the type of subdivision proposed. The applicant shall provide verification of approval from the State Department of Health or governing utility.

(B) *Sewer.* If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state and local laws and regulations. The applicant shall provide verification of approval from the State Department of Health or governing utility.

(C) *Special precautions.* All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions.

(D) *Transportation.*

(1) The existing transportation system is adequate to accommodate the traffic to be generated by the subdivision. The Planning Commission may require, as part of plat approval, a traffic study, prepared by professional traffic engineer and paid for by the developer, demonstrating that existing streets can handle the proposed traffic. The city also may require that the developer provide plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed development.

(2) If the traffic study indicates that the development will create more demand than the existing transportation system can accommodate, the developer shall show that it will make appropriate off-site improvements to meet the increase in demand and capacity.

(3) The city reserves the right to hire an independent consultant to verify the findings of the original study.

(E) *Testing verification.* The city may require borings and soundings be made in specific areas to ascertain subsurface conditions where proposed subdivision will not be served by public sanitary sewer service. The data will be submitted to the Arkansas Department of Health when obtaining approval of the subdivision sanitary facilities.

(F) *Mitigation.* The developer has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.

(G) *Design standards.* The plans must meet the requirements of Article 152.1000 (Design Standards).

§ 152.400.06 AUTHORIZATION TO PROCEED.

Receipt of an approved or conditionally approved copy of the preliminary plat, together with an approved copy of the improvements plan shall constitute authorization of the Planning Commission for the

subdivider to proceed with the installation of improvements and the staking out of lots and blocks. The subdivider, after conditional approval of the Preliminary Plat, shall complete all improvements required under this regulation prior to filing a final plat application.

§ 152.400.07 EXPIRATION OF PRELIMINARY PLAT APPROVAL.

(A) *Expiration.* The preliminary plat approval shall automatically expire one year from the original date of approval and further development work will require approval of another preliminary plat. An approved preliminary plat conditioned upon the developer completing a list of deficiencies shall also be considered to be null and void should the list of deficiencies in its entirety not be completed within the designated six month period from the date of preliminary plat approval.

(B) *Extensions.* If at the end of the expiration time approved in division (A) above for the preliminary plat, the subdivider submits a written request for extension of the preliminary approval, the Planning Commission may grant an extension of up to 12 additional months providing, in the opinion of the Planning Commission, sufficient work has been completed with respect to the required improvements on the property. No more than one extension shall be granted.

ARTICLE 152.500 FINAL PLATS

§ 152.500.01 APPLICABILITY.

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

(A) *Improvements complete.* The final plat of the proposed subdivision or an approved phase may be submitted to the Planning Commission for final approval at the time of completion of improvements shown on the preliminary plat.

(1) *Certificate of completion.* The owner/developer's engineer-of-record submits a statement certifying that all improvements and installations to the subdivision required for its approval under the terms of these regulations have been made, added, or installed in accordance with city specifications.

(2) *Final inspection.* The City Council, Planning Commission, or their designee(s) conducts and certifies a Final inspection.

(B) *Improvements substantially complete.* When the subdivision is substantially complete, as provided for in § 152.500.08 (Criteria for Substantial Completion), and owner/developer guarantees completion of the remaining items, as provided for in § 152.500.09 (Criteria for Guarantees), in accordance with § 152.300.08 (Assurance of Performance), the final plat may be submitted for final approval.

§ 152.500.02 APPLICATION FOR FINAL PLAT.

When the requirements of these regulations have been satisfied and while the preliminary plat approval is in effect, the owner/developer shall submit to the Planning Commission an application for review and approval of the final plat pursuant to the Tontitown Development Calendar which shall consist of: application. A completed application requesting review and approval of the final plat.

(A) *Plat*. The final plat in the number of prints as indicated on the application form, with all items required for a final plat as provided for in Article 152.800 (Plat and Plan Requirements), and other documents as specified in the application.

(B) *Fee*. Payment of the filing fee as specified in final plat application or schedule of fees.

(C) *Digital copy*. The owner/developer must submit with an application for final plat approval, the proposed final plat in digital form with all information in AutoCAD (DWG) format on CD. Information shall include property boundary, lot lines, easements, building setbacks, rights-of-way, street widths, pre-addresses, street names, arc radius, arc distance, and any other information that the Planning Commission may require. Line and curve data shall have bearing and distance chords. Questions concerning this requirement may be directed to the City Engineer or the City Council's designee.

(D) *Donated assets*. Approved estimate of donated assets, broken down by improvement type (streets, water, electric, sewer, drainage, and sidewalks), as prepared by the engineer-of-record and approved by the City Engineer, or City Council's designee.

§ 152.500.03 PRIOR TO PLANNING COMMISSION.

(A) *Maintenance assurance*. The owner/developer shall submit a financial instrument that assures maintenance of the donated assets in accordance with the requirements in § 152.300.09 (Maintenance Guarantee) no later than 12:00 p.m. the Friday before the Planning Commission meeting at which the final plat will be reviewed.

(B) *Guarantee of improvements*. If improvements are substantially complete, the owner/developer shall submit a financial instrument in accordance with the requirements set forth in § 152.300.08 (Assurance of Performance) no later than 12:00 p.m. the Friday before the Planning Commission meeting at which the final plat will be reviewed.

§ 152.500.04 REVIEW AND APPROVAL.

(A) *Planning Commission action*. The Planning Commission shall approve or disapprove the final plat within 60 days of receipt of the application. Disapproval of the plat shall be transmitted to the owner/developer with the reasons therefore within a reasonable time (not to exceed two weeks) after the meeting at which the plat was disapproved. Approval of the final plat by the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.

(B) *City Council action*. City Council approval of the final plat shall provide for the acceptance of right-of-way dedications. City Council approval and filing of the final plat for record constitutes the acceptance

by the public of dedications and improvements including any instruments of surety provided as a condition of final plat approval. City Council approval will be referenced by the City Council's designee.

§ 152.500.05 INSPECTIONS.

(A) *Inspections required.* All projects shall be constructed according to the plans and specifications reviewed and approved by the city. Inspections shall be made periodically by the city in accordance with other applicable ordinances. The city, or its designated agents, may inspect those facilities, improvements and installations for conformance with plans and specifications. Any improvements where post installation inspections methods cannot ascertain whether proper methods or materials were employed may require resident on-site inspection during installation at the sole cost of the developer.

(B) *Defects and deficiencies.* If such inspection reveals that there are any defects or deficiencies in such improvements as installed or that improvements differ from the final engineering plans and specifications accepted by the city, the City Council's designee shall notify the owner/developer and his or her engineer of record in writing of such defects, deficiencies, and deviations. The owner/developer shall, at his expense, correct such defects or deviations prior to final plat approval. When such deficiencies have been corrected, the Engineer of Record shall notify the City Council's designee in writing that improvements are again ready and a final inspection shall be conducted.

§ 152.500.06 RECORDING.

(A) *Owner/Developer Responsibility.* Upon approval of the final plat and acceptance of the public dedications by the City Council, the owner/developer shall record the final plat at the office of the County Circuit Clerk no later than ten days of the final plat approval.

(B) After recording the plat, the owner/developer shall provide two copies of the plat for the files of the Planning Commission and the City Council's designee.

§ 152.500.07 APPLICATION FOR BUILDING PERMIT.

No building permits may be issued until proof of the recording of the approved final plat has been presented to the appropriate city department.

§ 152.500.08 CRITERIA FOR SUBSTANTIAL COMPLETION (NON-BONDABLE ITEMS).

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

(A) *Streets.*

(1) All curb and gutter and street drainage slopes completed and backfilled.

(2) Final layer of asphalt in-place.

(3) Street signs paid for.

(4) Pedestrian accommodations constructed.

(5) Road right-of-way restoration substantially complete.

(B) *Sewer.*

(1) All sewer lines constructed to grade.

(2) Mandrel and pressure tests complete.

(3) All manholes complete to required elevations and vacuum tested.

(4) Sewer services marked.

(5) Lift station site functionally complete, with the exception of electricity.

(6) Tracer wires installed on force mains and gravity sewer lines and tested.

(7) Lift station alarm completed and monitorable.

(8) Draft final record drawings.

(C) *Water.*

(1) All water lines in-place, pressure tested, and bacterially tested safe.

(2) All hydrants and valves in-place, accessible, and operational (facing street).

(3) Meter tiles and setters in-place.

(4) Tracer wires installed and tested.

(5) Draft of record drawings.

(6) Passing test results for all backflow devices provided.

(7) All backflow prevention devices installed properly and functional.

(D) *Drainage.*

(1) Drainage swales in-place, sodded or concrete-lined, properly dedicated with erosion control measures in-place.

(2) Detention/retention facilities to grade and draining properly.

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

§ 152.500.09 CRITERIA FOR GUARANTEES (BONDABLE ITEMS).

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

(A) *Streets.*

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

(B) *Sewer.*

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

(C) *Water.*

- (1) Painting hydrants with proper coding for fire flow rates.
- (2) Hydrant markers installed.
- (3) Adjusting meter tiles to grade.

- (4) Adjusting meter setters.
- (5) Adjusting valve stacks.
- (6) Pouring concrete valve operator pads.
- (7) Final record drawings.
- (D) *Drainage*. Cosmetic work (finish grout, clean out boxes, pipes, and other appurtenances).

ARTICLE 152.600 INCIDENTAL SUBDIVISIONS

§ 152.600.01 APPLICABILITY.

(A) This section of the subdivision regulations is designed to expedite the platting and recording of minor subdivisions, lot splits and certain other dividing or adjustment of land area defined hereafter.

(B) For the purposes of these regulations, incidental subdivisions include the following:

- (1) *Lot split*. A lot split in which a lot, located in an already existing recorded subdivision within the planning area is divided into three lots or less, and where rights-of-way and/or utility easements are being dedicated to the city.
- (2) *Minor subdivision*. A minor subdivision in which a lot, tract, or parcel is divided into five lots or less and does not require dedications, vacations, reservations, changes in alignment of easements or rights-of-way, or extensions of utilities.
- (3) *Property line adjustment*. A property line adjustment in which a property line(s) is moved or relocated but does not create an additional lot. A property line adjustment may or may not dedicate rights-of-way and/or utility easements.
- (4) *Correction plat*. A correction plat in which a correction to an existing plat is necessary due to an incorrect legal description or scribe errors. The correction plat does not change the boundaries, does not change the subdivision name and does not create new lots. The correction plat may or may not create new utility easements.

§ 152.600.02 APPLICATION FOR APPROVAL.

(A) The application shall be submitted to the City Council's designee pursuant to the Development Process Flow Chart and shall consist of the following:

- (1) *Application*. Completed and signed application form.
- (2) *Fee*. Payment of the filing fee as specified in the application or schedule of fees.

- (3) *Survey*. Survey of the property signed and sealed by a Registered Land Surveyor with the state showing the information as required on the application.
- (4) *Plat*. Provide the number of copies of the plat as indicated in the application. The plat shall be drawn clearly to include the information as required in Article 152.800 (Plat and Plan Requirements).
- (5) *Deed*. Copy of land deed showing ownership of property.

§ 152.600.03 REVIEW AND APPROVAL.

(A) *Review*.

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

(2) *Action*. Within 14 days of receipt of the complete plat from the applicant, the City Council's designee shall recommend approval, approval with conditions, or disapproval said plat. After formal approval by the Commission a building permit can be issued after the applicant records the plat at the office of the County Circuit Clerk and provides the city with two copies. If the plans are approved with conditions, the conditions shall be set forth in written form to the owner/developer. The signature of the owner/developer on the form setting forth the conditions of approval shall be deemed his agreement to comply with said conditions, whereupon a building permit may be issued. If the plat is disapproved, the reasons for such action shall be provided in written form to the developer.

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

(4) *Approval signatures*. All approvals to any plat shall be signified by the signature of the City Council's designee upon the development plan.

(B) *Planning Commission action*. The Planning Commission shall approve, approve with conditions, or disapprove any incidental subdivision after administrative review as set forth in § 152.600.03(A) within 120 days of receipt thereof, otherwise said incidental subdivision shall be deemed to have been approved. Disapproval of the plat shall be transmitted to the applicant with the reasons therefore within 15 days after the meeting at which the plat was disapproved. Approval of the incidental subdivision by the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.

(C) *City Council Action*. Any incidental subdivision that dedicates street rights-of-way or easements shall be reviewed by the City Council.

§ 152.600.04 RECORDING.

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

§ 152.600.05 REVIEW CRITERIA.

Approval or disapproval of incidental subdivisions shall be given based on the following threshold guidelines:

- (A) No new street or alley is required or proposed.
- (B) No vacation of streets, alleys, setback lines, access control or easements is required or proposed.
- (C) Such action will not result in any significant increases in public service requirements, nor will interfere with maintaining existing public service levels.
- (D) There is adequate street right-of-way as required by these regulations and the Master Street Plan.
- (E) All easement requirements have been satisfied.
- (F) All lots created by such split or readjustment shall have access on a public street.
- (G) No substandard sized lots or parcels shall be created.
- (H) No waivers or variances from these regulations are requested.

ARTICLE 152.700 LARGE SCALE DEVELOPMENTS

§ 152.700.01 APPLICABILITY.

- (A) This section is applicable to all development or building construction within the city and its official planning area other than single family and duplex residential construction and development.
- (B) A development plan is required to be submitted to the City Council's designee for all such development or building construction regardless of zone and for all additions to existing developments or buildings regardless of zone.
- (C) Single family and duplex residential construction is specifically exempted from this requirement.
- (D) Examples of facilities or construction covered, but not limited to:
 - (1) New commercial, industrial, or civic development and building construction.

- (2) Additions, improvements, renovations or changes to existing buildings or developments.
 - (3) Residential construction or developments other than single family or duplex residential placed on individual lots.
 - (4) The revision of land use that results in the need for access to public streets or utilities.
- (E) No building permit shall be issued and no temporary or permanent connection to utilities shall be allowed until the development plan has been approved as set forth in this article. No permanent connection to utilities shall be allowed until the Chief Building Official or the City Council's designee has certified compliance with the approved development plan.

§ 152.700.02 PRE-APPLICATION CONFERENCE.

(A) *Purpose.* When the owner of a tract of land proposes its subdivision, the applicant is urged to discuss informally the intent of this subdivision with the City Council's designee. The purpose and intent of the pre-application conference is to afford the applicant an opportunity to obtain the advice of the City Council's designee in order to avoid unnecessary costs and delays to the applicant and to give informal guidance to the development at a stage where potential points of conflict or differences can be readily resolved.

(B) *Fees.* No fees shall be collected for pre-application conference, its purpose being to acquaint the applicant with plans and policies in effect that may be significant to his proposed project (development, construction, usage, or revision).

(C) *Sketch plans.* The applicant shall submit sketch plans and data showing existing conditions within the site and its vicinity and the proposed layout and development of the proposed development. Sketch Plans should include tentative design/layout of the following improvements: stormwater detention, utility connections, parking, street access, lighting, signage, and landscaping.

(D) *Discussion.* At the pre-application conference, the general character of the development will be discussed and items including zoning, utility service, street requirements, flooding and drainage, and other pertinent factors related to the proposed development and its proposed usage will be reviewed. Discussions at the pre-application conference shall not imply any approval of subsequent development plan approval.

§ 152.700.03 APPLICATION FOR APPROVAL.

(A) Development Plans are to be submitted to the Planning Office pursuant to the Tontitown Development Calendar and shall be reviewed upon their individual merits upon specific application of the developer.

(B) The Development Plans shall comply with Article 152.800 (Plat and Plan Requirements).

(C) The Planning Office shall be permitted (upon review and approval by city engineer or city planner) to waive certain requirements of the plat and plan requirements , depending on the size and complexity of

the building or development and upon the impact which the building or development may have on the Master Street Plan, Zoning Ordinance, and the Land Use Plan or any other published, current or future, plans for the city.

(D) Unless given a waiver under § 152.700.03(C) above the application for approval must contain the following at a minimum to be considered:

- (1) *Application*. Complete the application provided by the City Council's designee.
- (2) *Fee*. Payment of the fee as indicated on the application.
- (3) *Plans*. The number of copies of development plans and landscaping plans as identified on the application. All appropriate items as required by Article 152.800 (Plat and Plan Requirements).
- (4) *Deed*. Copy of land deed showing ownership of property.
- (5) *Submittal to other departments*. The developer shall submit to the City Council's designee and representatives for the water, sewer and electrical consultants or agencies, as required by the City Council's designee, sufficient copies of the development plan drawn to scale. The plan shall be submitted containing a development plan, landscape or planting plan, utility plan, detail sheet and erosion control plans, grading and drainage plans, and any other information required by the Planning Commission.

§ 152.700.04 REVIEW AND APPROVAL.

(A) *Administrative review*.

(1) *Applicability*. The City Council's designee shall administratively review:

- (a) *Residential*. Any residential development not exceeding two family units; or
- (b) *Nonresidential*. Any nonresidential alteration or extension not exceeding 50% of the gross floor area of the existing structure. Only one such alteration or extension to a structure may be approved by the City Council's designee without further review by the Planning Commission.

(2) *Action*. Within 30 days of receipt of the complete large scale development plans by the City Council's designee, he shall recommend for approval, approval with conditions, or disapproval of said plans. If the City Council's designee recommends approvals of the plans, the designee shall forward the Plans to the Planning Commission. If the plans are approved with conditions, the conditions shall be set forth in written form to the developer. The signature of the developer on the form setting forth the conditions of approval shall be deemed his agreement to comply with said conditions. If the plans are disapproved, the reasons for such action shall be reduced to written form and supplied to the developer.

(3) *Additional review*. If the City Council's designee determines that there is a necessity of transmitting the plans to outside sources for additional comment or in-depth study, he shall notify the developer in writing within the 30-day period that a decision will not be made within the 30-day period, what the reasons are for the delay and the date at which a decision can be expected. A copy of said letter shall be

sent the Chairman of the Tontitown Planning Commission. If the developer objects to such an extension, said objection shall be heard as a priority item at the next regular Planning Commission meeting.

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

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

§ 152.700.05 REVIEW CRITERIA.

(A) The City Council's designee, Planning Commission or City Council may refuse approval of any development plan for any of the following reasons:

(1) *Incomplete application.* The development plan is not submitted in accordance with the requirements of this article.

(2) *Violation of law.* The proposed development or construction would violate a City ordinance, or a state or federal law.

(3) *Dangerous traffic conditions.* The proposed development would create or compound a dangerous traffic condition. For the purpose of this chapter, a “dangerous traffic condition” shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

(4) *Lack of utilities.* Adequate water, sewer, and electrical utilities are not readily available to the property and the developer has made no provision for extending such service to the development, or the provision of these utilities cannot obtain approval by the State Health Department, or other appropriate department.

(5) *Inadequate drainage conditions.* The property to be developed reflects an extreme drainage problem uncorrected by the proposed development plan.

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

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

§ 152.700.06 ADJUSTMENT AND ALTERATIONS.

The development plan approved by Planning Commission will be deemed to be a final plan for which minor adjustments and modifications may be granted upon request of the City Council's designee. In no event may any modifications to a development plan be made without prior approval of the City Council's designee. Any substantial changes in the development will be in conformance with the procedures for a

new submission. Determination of the relative importance of the alterations and/or the need for re-submittal will lie with the City Council's designee.

§ 152.700.07 EXPIRATION AND EXTENSION OF APPROVAL.

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

- (1) Receive a building permit;
- (2) Place footing; and
- (3) Receive all permits and approvals required by city, state and federal regulations to start construction of the development or project.

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

§ 152.700.08 APPEALS.

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

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

§ 152.700.09 APPLICATION FOR BUILDING PERMIT.

(A) Upon approval or conditional approval of the large scale development plan, the applicant may submit an application for a building permit. The applicant shall provide the following documents prior to issuance of the building permit:

- (1) Letters of approval from AHTD, State Department of Health, or any other department requiring state or local government entity approval.
- (2) A 36-month replacement guarantee from the supplier or property owner on all live plant material used in the landscape plan; and

(3) Any Large Scale Development that has over \$20,000 of donated assets, as determined by the engineer of record that is to be dedicated to the city shall provide a maintenance letter of credit, bond, or cash deposit in accordance with the requirements in § 152.300.09 (Maintenance Guarantee) and a warranty in accordance with the requirements in § 152.300.08 (Assurance of Performance).

§ 152.700.10 FINAL INSPECTION.

(A) *Purpose.* The purpose of the large scale development final inspection (development final) is to insure the completed project complies with the Master Street Plan, Subdivision Ordinance, Zoning Ordinance, and any other, current or future, governing specifications and regulations of the city.

(B) *Process.*

(1) *Certificate of completion.* When site construction is complete, the owner/developer's engineer-of-record shall submit a written statement certifying that all improvements and installations to the large scale development required for its approval under the terms of these regulations have been made, added, installed and are functional in accordance with city specifications.

(2) *Development final inspection (development final).* The owner/developer's engineer-of-record shall request in writing a development final inspection, addressed to the City Council's designee. No inspection shall be passed until all items are completed in accordance with divisions (C) and (D) below.

(3) *Certificate of Occupancy Inspection (Building Final).* A certificate of occupancy inspection shall be scheduled only after the project has passed the development final inspection.

(C) *Completed improvements for certificate of occupancy.* The following improvements shall be complete prior to the city issuing the development final inspection and the owner/developer scheduling a certificate of occupancy inspection.

(1) *Streets.*

(a) All curb and gutter completed and backfilled.

(b) Final layer of pavement in-place to required thickness and density.

(c) Pedestrian accommodations constructed per approved plan including accessible ramps.

(d) Low or ponding areas in public streets corrected.

(e) Pavement markings complete and all necessary signage in place.

(2) *Drainage.*

(a) Drainage swales in-place, sodded or concrete-lined, properly dedicated with erosion control measures in-place.

(b) Detention/retention facilities to grade and draining properly.

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

(3) *Water.*

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

(4) *Sewer.*

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

(h) Lift station alarm deposit submitted.

(i) Lift station extra pump delivered.

(j) Draft of record drawings submitted.

(5) *Fire.*

(a) All hydrants and valves in-place, accessible, and operational (facing street).

(b) Fire lanes marked.

(c) Building addressed (temporary).

(d) Fire flow tests.

(6) *Planning.*

(a) Final grades achieved.

(b) Seeding and sodding in-place.

(c) ADA requirements met.

(d) Landscaping installed when scheduling a development final inspection between March 2 to July 14 and September 16 to November 30. Parking paved and marked.

(e) Dumpsters screened.

(D) *Exceptions for temporary certificate of occupancy.* The city may schedule a certificate of occupancy inspection to issue a temporary certificate of occupancy if the items in division (D) above are complete, but any of the following items are incomplete:

(1) *Streets.*

(a) Unacceptable curb sections on city streets corrected.

(b) Joints in concrete pavement and curb and gutter cleaned and caulked.

(2) *Drainage.*

(a) Cosmetic work (finish grout, clean out boxes and pipes).

(b) Final record drawings submitted.

(3) *Water.*

(a) Hydrants painted, as directed by the Water Department.

(b) Meter tiles adjusted to grade.

(c) Meter setters adjusted to grade.

(d) Valve stacks adjusted to grade.

(e) Concrete valve operator pads installed and grouted.

(f) Final record drawings submitted.

(4) *Sewer*.

(a) Cosmetic work complete.

(b) Final as-built drawings submitted.

(5) *Fire*. Building addressed (permanently).

(6) *Planting*. Landscaping installed when scheduling a development final inspection between December 1 to March 1 and July 15 to September 15 if the climate and weather delay completion.

ARTICLE 152.800 PLAT AND PLAN REQUIREMENTS

§ 152.800.01 ITEMS TO BE SHOWN ON PLAT OR INCLUDED IN A PLAN.

Requirements	Preliminary Plat	Final Plat	Large Scale Development	Incidental Subdivision
General Requirements				
(1) Show property lines of all property owners adjacent to the exterior boundaries of the project shall be located on the plat at the location of their property.	✓	✓	✓	✓
(2) Provide names, addresses, telephone number, e-mail addresses and fax numbers, of all parties involved in project. Include registration and license number of professionals.	✓	✓	✓	✓
(3) Show north arrow, scale, dates of preparation, zoning classification, and proposed use.	✓	✓	✓	✓
(4) Provide title block located in the lower right hand corner indicating the name and type of project, scale, firm	✓	✓	✓	

or individual preparing drawing, date, and revisions.				
(5) Provide a complete and accurate legend.	✓	✓	✓	✓
(6) Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress or completed.	✓	✓	✓	
(7) Show boundary survey of the property shown on the plat/plan or separate sheet. The surveyor shall seal, sign, and date the survey. The survey shall be tied to State Plane Coordinates on two controlling corners of the property and meet all requirements of Section 152.800.	✓	✓	✓	✓
(8) Provide written legal descriptions including area in square feet or acres that read clockwise. (Note: If the project is contained in more than one tract, the legal description for each individual tract and a total tract description must be provided.)	✓	✓	✓	✓
(9) Show point-of-beginning from a permanent well-defined reference point. This P.O.B shall be clearly labeled on the drawing.	✓	✓	✓	
(10) Show curve data for any street, which forms a project boundary. Curve data shall include radius, arc and chord distance.	✓	✓	✓	✓
(11) Show street right-of-way lines clearly labeled. The drawing shall depict any future R.O.W needs as determined by the AHTD and Master Street Plan. Future R.O.W as well as existing R.O.W. and centerlines should be shown and dimensioned. All future R.O.W. shall be dedicated on drawing.	✓	✓	✓	✓
Requirements	<div> <div>Preliminary Plat</div> <div>Final Plat</div> <div>Large Scale Development</div> </div>			
(12) Show 100 yr. Floodplain and/or Floodway and base flood elevations. Reference the FEMA FIRM panel number and effective date.	✓	✓		✓
(13) Provide a benchmark (within ½ mile) clearly defined with an Accuracy of one/one hundredth (1/100) foot. This Benchmark must be tied to USGS Datum.	✓	✓		✓
(14) Indicate spot elevations at grade breaks along existing road centerlines,	✓			✓

gutter lines and top of curbs or edge of pavement and ditch inverts and culverts.			
(15) Provide a general vicinity map of the project with a radius of one (1) mile from the project.	✓		✓
(16) Show existing and proposed topographic information with source of the information noted. Show: (a) Two-foot contour interval for ground slope between level and ten percent. (b) Five-foot contour intervals for ground slope exceeding ten percent. (c) Contours of adjacent land within 100 feet of the project shall also be shown.	✓		✓
(17) Show the location of all existing structures. On large-scale developments, show the location of proposed buildings and square feet. Dimension building and setbacks from the building side to property lines.	✓		✓
(18) Provide sign-off block.	✓	✓	✓
(19) Provide revision block.	✓	✓	✓
Existing Utilities			
(20) Show all known on-site and off-site existing utilities and easements (dimensioned) and provide the structures locations, types, and condition and note them as "existing" on the plat.	✓	✓	✓
(21) Show existing easements shall show the name of the easement holder and purpose of the easement and registry recording information. If an easement is blanket or indeterminate in nature, a note to this effect shall be placed on the plat or plan.	✓	✓	✓
Proposed Utilities			
(22) Regarding all proposed storm sewer structures and drainage structures: (a) Provide structure locations and types. (b) Provide pipe types and sizes.	✓	✓	✓
Requirements	Preliminary Plat	Final Plat	Large Scale Development
(23) Regarding all proposed sanitary sewer systems, applicant shall :	✓		✓

(a) Provide letter of approval from system operator			
(b) Provide pipe locations, sizes and types	✓	✓	✓
(c) Show manhole locations of rim and invert elevations			
(d) Provide profiles including slope in percentage and existing and proposed utilities when crossing or parallel in vicinity.	✓		✓
(e) Provide plan and route for access to all manholes.			
(f) If lift-station is proposed, submit plans to the Water and Sewer Commission or their designee for review before submission to the ADEQ.			
(g) Show off-site plans (if applicable) for gravity sewer and force mains serving the proposed development.	✓	✓	✓
(24) Indicate the occurrences of any previous overflow problems of sewer or septic systems on-site or in the proximity of the site.	✓		✓
(25) If a septic system is proposed, indicate it on the plat or plan. Show proposed location of septic tank and lateral fields including detail of leachate pipes and drain fill material. Show primary and alternate lateral field areas.	✓	✓	✓
(26) Regarding all proposed water systems, on or near the site, provide information required in twenty-seven (27) thru thirty (30) below.	✓		✓
(27) Provide pipe locations, types and sizes	✓	✓	✓
(28) Indicate the static pressure and flow of the nearest hydrant along with engineer calculations of flow rates.	✓		✓
(29) Show location of proposed fire hydrants, meters, valves, backflow preventers and related appurtenances.	✓	✓	✓
(30) Show that the design of the water and sewer utilities will minimize conflict with other underground utilities, and provide clear copy.	✓		✓
(31) Show locations of all related utility structures.	✓		✓
(32) Show locations of all utility lines (note whether the line is below or above ground).	✓	✓	✓
(33) (reserved)			

Requirements	Preliminary Plat	Final Plat	Large Scale Development
(34) Indicate where streets will be constructed under the existing overhead facilities and the approximate change in grade for the proposed street.	✓		✓
(35) Indicate the width, approximate locations, and purposes of all proposed easements or rights of way for utilities, drainage, water, sewers, flood control, ingress/egress or other public purposes within and adjacent to the project.	✓	✓	✓
Proposed and Existing Streets, Rights-of-Way, and Easements			
(36) Indicate the location, widths, grades, and names (avoid using first names of people for new streets) of all existing and proposed streets, alleys, paths, and other rights-of-way, whether public or private, within and adjacent to the project; private easements within and adjacent to the project; and the radius of each centerline curve. Curve/arc of streets should include radius and arc distance data on survey or plat. Private streets shall be clearly indicated and named. Street names must clearly be indicated. Names shall be final as approved on the Preliminary Plat. All items shall be dimensioned and labeled if previously dedicated per a separate document.	✓	✓	✓
(37) Show layout of adjoining property with five hundred (500) feet in sufficient detail to show the affect of proposed and existing streets, adjoining lots, and off-site easements. This information can be obtained from the Master Street Plan, aerial photos, and local surveyors.	✓		✓
(38) Identify and dimension all access easements, including ingress and egress.	✓	✓	✓
(39) A preliminary easement plat may be required by the City Council's designee depending on the number and location of easements. After construction of the approved large-scale development, a final easement plat must be submitted to the City Council's designee. Seven (7) full size copies are required.			✓
Subdivision of Land			
(40) The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest one/one-hundredth (1/100th) acre of each lot, and the approximate finish grade where pads are proposed for building sites. Lots shall be numbered consecutively for all phases. These numbers shall be associated with each phase of subdivision. The total number of lots shall be indicated on the plat. Subdivision names shall be shown and considered final as approved on the Preliminary Plat.	✓	✓	✓
(41) Show the designation of all "out lots" and anticipated uses, if known.	✓	✓	✓

(42) For phased development, a plat showing all phases is required.	✓		✓
Requirements	Preliminary Plat	Final Plat	Large Scale Development
Site Specific Information			
(43) Provide a note of any known existing erosion problems on-site or within two hundred fifty (250) feet downstream of the property. Provide locations and type of all stormwater runoff control devices and improvements as part of the overall stormwater pollution prevention plan for the project site.	✓		✓
(44) Show the location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, fuel tanks and any other underground structures within the project.	✓		✓
(45) Show the locations of known existing or proposed ground leases or access agreements, if known (e.g. shared parking lots, drives, areas of land that will be leased). List any deeded mineral, gas and oil rights and registry recording information.	✓		✓
(46) The location of all known potentially dangerous areas, including areas subject to flooding, slope stability, settlement, excessive noise, previously filled areas and the means of mitigating the hazards to, included but not limited to, abatement wall and signage.	✓		✓
(47) Show the boundaries, acreage, and the use of existing and proposed public areas in and adjacent to the project. If land is to be offered for dedication for park and recreation purposes it shall be designated on documents submitted for approval and acceptance by the City of Tontitown.	✓	✓	✓
(48) Indicate the use and list in a table the number of units and bedrooms in each building.			✓
(49) For non-residential use, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.			✓
(50) Show the location and size of existing and proposed signs, if any.	✓		✓
(51) Show location and width of curb cuts and driveways. Dimension all driveways and curb cuts from side property line and surrounding intersections.	✓		✓
(52) Show location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicap accessible parking spaces.			✓

(53) Show location of buffer strips, fences or screen walls, where required.	✓		✓
(54) Indicate location of garbage service and screening requirements.			✓
(55) Provide a description of commonly held areas, if applicable and designate responsible entity(ies) for maintenance and property taxes.	✓	✓	✓
Requirements	Preliminary Plat	Final Plat	Large Scale Development
(56) Provide existing or draft of covenants, conditions, and restrictions.	✓	✓	✓
(57) Provide a written description of requested waivers from any city requirement and reason(s) waiver is necessary.	✓	✓	✓
(58) Show required building setbacks for large-scale developments. Provide a note on the plat of the current setback requirements for the subdivision. A variance is necessary from the Board of Adjustment for proposed setbacks less than those set forth in the zoning district.	✓	✓	✓
(59) Provide preliminary drainage plan as required by the City Engineer, or the City Council's designee.	✓		✓
(60) Show size, location, and type of all existing trees over six (6) inches or more in DBH except in areas determined by the City Council's designee to be heavily wooded.	✓		✓
(61) Provide landscape plan.			✓
(62) Show location of proposed and existing area light fixtures.			✓
(63) Show description of each illuminating device, fixture, lamp, support and shield. The description shall include, but is not limited to, manufacturer's catalog cuts, illustrations, wattage, and lumen outputs. If required, documentation of compliance with cutoff requirements shall be provided.			✓
(64) Provide elevation drawings of front, rear and sides of the structure showing all entrances, windows, site objects and fixtures to include color and type of material.			✓

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

§ 152.800.02 CERTIFICATES.

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

(1) *Certificate of Preliminary Survey Accuracy*.

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

Date of Execution: _____

Registered Land Surveyor

State of Arkansas

Registration No. _____

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

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

Date of Execution: _____

Registered Engineer

State of Arkansas

Registration No. _____

(3) *Certificate of Preliminary Plat Approval*.

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

Date of Execution: _____

Chairman, City of Tontitown Planning Commission

(B) *Final Plats*.

(1) *Certificate of Ownership*.

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

Date of Execution: _____

Signed : _____

Name & Address:

Source of Title: D.R. _____

Page _____

(2) *Certificate of Recording.*

This document filed for record

This day of , 2_,

In Plat Book No. , Page .

Signed:

Washington County Circuit Clerk

(3) *Certificate of Surveying Accuracy.*

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

Date of Execution: _____

Signed:

Registered Land Surveyor

No. _____

State of Arkansas

(4) *Certificate of Approval.*

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

Date of Execution: _____

Signed _____

Chairman, Tontitown Planning Commission

Planning Commission

Signed _____

City Council's Designee

Signed _____

City Clerk, City of Tontitown

§ 152.800.03 WAIVER.

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

ARTICLE 152.900 MINIMUM SURVEY STANDARDS

§ 152.900.01 GENERAL REQUIREMENTS.

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

§ 152.900.02 HORIZONTAL CONTROL STANDARDS.

(A) *Horizontal Datum.* The horizontal datum for all survey work performed shall be the Arkansas State Plane Coordinate System - north zone - NAD 83. All horizontal control work shall commence and end at

a Tontitown GPS Monument Network monument or Tontitown GPS Monument Network first generation monument.

(B) *Accuracy Standard.* Horizontal positions for all Tontitown GPS Monument Network monuments shall be determined to an accuracy standard equal to Urban Type A classification as defined by the Arkansas Minimum Standards for Property Boundary Surveys and Plats. All field techniques and procedures shall be compatible with the equipment utilized to insure that a true urban type A accuracy level is achieved.

(C) *Data Control Form.* Position and reference information shall be provided on a standard data control form for a minimum of two Tontitown GPS Monument Network monuments which shall be inter-visible with each other and submitted with the final plat. Forms may be obtained from the City of Tontitown Planning Department. These monuments will be included in the Tontitown GPS Monument Network if, after their review by the city, they are determined to be suitable for inclusion into the network.

(D) *Interior Corners.* All interior corners of the subdivision (lot corners, street center line control points, etc.) shall be established and monumented to meet the minimum accuracy standards established by the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

§ 152.900.03 VERTICAL CONTROL STANDARDS.

(A) *Vertical Datum.* The vertical datum for all survey work performed shall be the North American Vertical Datum 1988 Adjustment (NAVD88). All vertical control work shall commence and end at Tontitown GPS Monument Network monument or Tontitown GPS Monument Network first generation monument.

(B) *Accuracy Standard.* Elevations for all concrete monuments shall be determined to an accuracy standard equal to third order classification as defined by the Federal Geodetic Control Committee. All field techniques and procedures shall be compatible with the equipment utilized to insure that a true third order accuracy level is achieved.

§ 152.900.04 MONUMENTATION.

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

(1) A minimum six-inch diameter steel reinforced concrete post set flush with ground. The concrete shall be 3,000-psi minimum compressive strength premix concrete.

(2) Monument shall be a minimum of 36 inches in depth.

(3) Steel reinforcement shall consist of a minimum of two 34-inch long, one-half-inch diameter steel bars. Bars shall be driven a minimum of six inches into undisturbed soil.

(4) A brass or aluminum survey cap (including a permanent magnet), a minimum of two inches in diameter, shall be cast or grouted into the top of the concrete post. The following information shall be stamped into the survey cap:

- (a) A stamped "." to mark the precise location of point being monumented.
- (b) Registration number of the surveyor in charge.
- (c) Monument number as assigned by the city.

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

ARTICLE 152.1000 DESIGN STANDARDS

§ 152.1000.1 GENERAL PROVISIONS

- A. Purpose.** The purpose of this portion of these regulations is to specify the basic and minimum requirements for lots, blocks, streets, and other physical elements in new subdivisions. It also provides a guide for the staff, the Planning Commission and the applicant in the review and preparation of subdivision plats.
- B. Suitability of Land.** Land subject to flooding or topographically unsuitable for residential occupancy and which the Planning Commission considers unsuitable for subdividing shall not be platted for any use that may increase the danger to health, life, property or aggravate erosion or flood hazard. When such land is in the proposed plat, this land shall be set aside for such land uses as will not be affected by periodic flooding or unsuitable topographic conditions unless adequate corrective measures are formulated by the developer and approved by the Planning Commission.
- C. Provision of Land for Public Purposes.** Where proposed community or public facilities are located in whole or in part in a proposed subdivision, the Planning Commission, City Council, or public board shall require that land for those public facilities be reserved as a condition of preliminary plat approval. Such reservations shall be referred to the appropriate public board, commission, or body having jurisdiction or financial responsibility to permit the opportunity to acquire said sites either through purchase, taking an option, or the filing of condemnation proceedings under the power of eminent domain. The contract to acquire the subject public site must be closed within 12 months following the date of approval of the preliminary plat by the Planning Commission or the subdivision process shall continue without regard for the proposed community or public facilities.
- D. Access.** A publicly dedicated street shall serve every subdivision. Every lot or parcel within a subdivision shall have access to a publicly dedicated street, or in the case of a PUD OR PRD, access to a public street by means of a private street. All lots shall front on public streets except for PUD OR PRD's where the Planning Commission may approve the private streets.
- E. Fitness for Development.** Based on topographic maps, soil surveys prepared by the Department of Agriculture, drainage information from the General Plan and any special studies made by or for the City or information provided by the developer, the Planning Commission may require that steep grades, unstable soil and floodplains be set aside and not subdivided until corrections are made to protect life, health and property.

§ 152.1000.2 UTILITIES

- A. Coordination.** The sub-divider shall coordinate with the City of Tontitown and other local utilities for the design, supply and installation of all utilities serving subdivisions within the planning jurisdiction of the City of Tontitown.
- B. Specifications.** All utilities shall comply with the City of Tontitown Water Utility and other local utility providers specifications.
- C. Placement Underground.** In new residential developments requiring Planning Commission approval and new commercial developments all utility wires, lines, and/or cables in said developments utilized by electric and/or telecommunications companies shall be placed underground. Overhead wires, supporting structures, and associated structures of a temporary nature which provide temporary service are exempt from this requirement. A single power pole near the exterior boundary of a development shall be allowed to provide connections for underground service, except in minor subdivisions as defined in code section 152.600.01.
- D. Structures.** No structures shall be located within a utility easement.

§ 152.1000.3 BLOCKS

The length, width and shape of blocks shall be determined with regard to the following:

- A. Use.** Provision of adequate building sites suitable to the special needs of the type of use proposed.
- B. Zoning.** Zoning requirements as to lot sizes and dimensions.
- C. Access.** Needs for convenient access, circulation, and control and safety of street traffic.
- D. Topography.** Limitations and opportunities of topography.
- E. Size.** Blocks of less than four hundred (400) feet in length or more than one thousand five hundred (1,500) feet in length shall be prohibited. Blocks of over one thousand (1,000) feet in length may require a public crosswalk within a dedicated easement of not less than fifteen (15) feet in width including a paved crosswalk not less than five (5) feet in width to provide pedestrian circulation.
- F. Business and Industrial Use.** Blocks intended for business and industrial uses should be of a width suitable for the intended purpose with due allowance for off-street parking and loading facilities.
- G. Residential Use.** Residential blocks shall be wide enough to provide two tiers of lots of minimum depth except where fronting on freeways, expressways and major thoroughfares or prevented by topographic constraints in which case the Commission may approve a single tier of lots of minimum depth.

§ 152.1000.4 LOTS

- A. Access.** Every lot shall have access to a public street except where private streets are explicitly approved by the Planning Commission in Planned Unit Developments or Planned Residential Developments.
- B. Shape.** The shape of residential lots shall conform to the design of the subdivision. The Planning Commission shall judge lot shapes on the type of development and the use for which the lot is intended.
- C. Dimensions.** Except as provided herein, the minimum lot dimensions shall conform to the requirements of the Zoning Ordinance for the zoning districts within which the subdivision is located.
- D. Setbacks.** The minimum building setback line shall be as defined in Tontitown zoning ordinance section 153.401.
- E. Floodways.** A minimum building setback line shall be established on the plat not less than twenty-five (25) feet from any floodway boundary. This shall not affect plats that have been initiated prior to the passage of this ordinance and filed while final plat approval is in effect.

- F. Corner lot size.** Corner lots should be roughly 20% larger than interior lots.
- G. Double frontage lots.** Double frontage lots other than corner lots fronting on two streets shall not be platted except under extreme circumstances, as may be approved by the Planning Commission, in which case building lines shall be established for both front and rear lot lines. Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential developments and traffic arteries or to overcome specific topographic or site constraints. Where double frontage exists, a planting screen easement of at least ten feet (10') shall be provided along a portion of the lot abutting the traffic artery or other use where screening is required. In this circumstance, there shall be no right of access across the planting screen easement. At the discretion of the Planning Commission, the developer may substitute for an easement and a planting screen, a permanent ornamental fence or wall of the height and architectural character which will be appropriate and appropriately screened. Should the ornamental wall or fence be used, there shall still be a restriction upon right of access and such restriction shall clearly be so designated on the plat and within the accompanying Bill of Assurance.
- H. Slope and drainage.** Every lot must slope to a street or its intended stormwater collection system.

§ 152.1000.5 STREETS

- A. Standard Street Specifications.** All streets shall be constructed in conformance with the requirements of the City's current adopted Standard Specifications for Streets.
- B. Right-of-way Dedication.** Subdivisions and large-scale developments shall dedicate sufficient right-of-way to bring those streets which the Master Street Plan shows to abut or intersect the development into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided the Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- C. Coordination.** The street system of a proposed subdivision shall be designed to coordinate with existing, proposed, and planned street outside of the subdivision as provided in this section.
- D. Connectivity.** Local and residential streets shall connect with surrounding streets to permit the safe and convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
- 1. Gated Communities.** To ensure public safety with easy access to residential neighborhoods by police, fire and ambulance services and to maintain neighborhood connectivity as described above, gated communities are prohibited.
- (a)** In cases where site conditions do not allow for adequate connectivity, a waiver may be requested in accordance with *Sec. 152.300.04 Waivers* of the Subdivision Code. The waiver shall be reviewed based on the following criteria:
- i. The development is adjacent to developed land that does not provide locations for connection of the street system.
 - ii. The development is adjacent to topography with slopes greater than 17%.
 - iii. The property does not include a collector, minor or principal arterial shown on the Master Street Plan.
- E. Street Stubs.** Wherever a proposed development abuts un-platted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the Planning Commission to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with temporary turn-around or cul-desacs unless specifically exempted by the City Engineer or or Planning Commission, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

F. Street Intersections. Street intersections shall be designed to ensure safety. Because steep grades at intersections reduce sight distances and hinder vehicle control, street grades shall be flattened out within one-hundred (100) feet of intersections according to AASHTO geometric design guidelines for highways and city streets..

G. Additional Safeguards. These requirements shall be considered minimums, and where deemed necessary by the Planning Commission for the interest of public health, safety, and welfare, additional safeguards may be required.

H. Residential Street Lights.

1. Public Streets. Developers of all new residential subdivisions with public streets shall select either (1) the Standard Street Light Option, or (2) an Upgraded Street Light Option.

(a) Standard Street Light Option.

- i. *Description.* The standard streetlight meets IESNA's (Illuminating Engineering Society of North America) definition of "cutoff" and is a light fixture of traditional styling. Specifications for standard street light fixtures, as amended, are on file at the servicing Electric Department.
- ii. *Developer Responsibility.* The developer shall share the cost of the standard fixture with the City of Tontitown. The developer shall provide the 1 ½" conduit raceway, surface mount foundation and anchor system, as specified by the servicing electric provider.

(b) Upgraded Street Light Option.

- i. *Description.* The decorative street lights are cutoff fixtures of traditional or period styling. Specifications for upgraded street light luminaires and poles, as amended, are on file at the Tontitown Planning Department.
- 2. Private streets.** The developer of new subdivisions that have private streets shall contribute 100% of the cost for a standard street light fixture, as described in H(1)(a)(i), or upgraded street light fixture as described in H(1)(b)(i). The developer and/or property owners association shall be responsible for the cost of electrical power service and ongoing maintenance and upkeep of the fixtures. The City shall bear no responsibility for street lights located on private streets.
- 3. Gas street light fixtures.** Developers may choose to use a gas operated street light fixture. In such instances, the developer shall supply to the Planning Department a proposal that includes illustrations of the fixtures and data showing that illumination is a minimum of 2700 lumens per fixture. The low lumen values characteristic of gas light fixtures could dictate that more fixtures and closer placements of fixtures are necessary to assure adequate roadway safety and security as determined by the City. The developer and/or the property owners association shall be responsible for the cost of the gas service and ongoing maintenance and upkeep of the fixtures. The City shall bear no responsibility for gas fixtures.
- 4. Existing non-standard street light fixtures.** Non-standard street light fixtures existing prior to adoption of this Ordinance may continue. If the non-standard street light is damaged, two options are available:
- (a) *Repair.* To use the same fixture, the homeowner's association shall provide the replacement parts and labor for cost of repair.
 - (b) *Replacement.* When a property owner's association does not provide the replacement parts, the City shall remove the existing fixture and replace it with a street light fixture that most closely resembles and charge the property owner's association for cost of parts and labor.
- 5. Location and placement.** The supplying electric utility provider shall approve the location and placement of all types of street light fixtures.

I. Commercial Street Lights.

1. Public Streets. Developers of all new commercial subdivisions that contain public streets within the development or that front a public street shall select either (1) the Standard Commercial Street

Light Option, or (2) if the subdivision is served by underground electric utilities, the Upgraded Commercial Street Light Option.

(a) Standard Commercial Street Light Option.

- i. *Description.* The standard commercial street light is a 400 Watt, High Pressure Sodium Cobra head style installed on a wood pole. The standard commercial street light is serviced by overhead power lines and shall not be installed for developments where all utilities are located underground.

(b) Upgraded Commercial Street Light Option.

- i. *Description.* The upgraded commercial street lights are 250 Watt, High Pressure Sodium acorn style fixtures installed on a cast iron/steel pole that meets the IESNA definition of a “cutoff” fixture. The upgraded commercial street light is serviced by underground power lines. This option shall only be an option for developments that (1) front on a street that is identified as a Principal Arterial, Minor Arterial, or a Collector Street on the City’s current Master Street Plan and, (2) locate all utilities underground
 - ii. *Developer Responsibility.* The developer shall contribute the cost of the upgraded commercial street light and pole; provide the surface mount foundation and anchor system; and provide the 1 ½” conduit raceway, as specified by the servicing electric provider.
- 2. Private streets.** The developer of new commercial developments that have private streets shall contribute 100% of the cost for either the standard commercial street light fixture or the upgraded commercial street light fixture, whichever is selected by the developer. The developer and/or property owners association shall be responsible for the cost of electrical power service and ongoing maintenance and upkeep of the fixtures. The City shall bear no responsibility for street lights located on private streets.
- 3. Gas street light fixtures.** Gas operated commercial street light fixtures are prohibited on Principal Arterial, Minor Arterial, or Collector Streets as designated on the City’s current Master Street Plan.
- 4. Location and placement.** The local electric utility shall approve the location and placement of all types of street light fixtures.

J. Cul-de-sacs. Cul-de-sacs shall be no longer than 660’.

K. Traffic Calming. The following regulations apply to all new residential and local streets.

- 1. Purpose.** The purpose of traffic calming regulations is to design new residential and local streets in a manner that improves road safety through speed and volume reduction; which in turn can improve neighborhood livability and provide opportunities for landscaping and aesthetic improvements.
- 2. Design Speed.** Local and residential streets shall be designed to encourage and maintain 85th percentile speeds in the 25 to 30 mph range.
- 3. Speed Control Points.** The maximum road length between speed control points shall be 660 ft. Speed control points are considered any one of the following:
 - (a) *Warranted stop sign.* A stop sign shall be warranted at the intersection of a local or residential street and a collector or arterial street. A stop sign is not warranted at intersections between local and/or residential streets.
 - (b) *Horizontal curve.* Curves serving as speed control points shall have a centerline radius between 90 and 120 ft.
 - (c) *Traffic calming device.* A traffic calming device is a physical element of the street design that compels drivers to slow down. Recommended traffic calming devices include traffic circles, chicanes, center island narrowing, speed tables, intersection bulb-outs, and mid-block chokers.
- 4. Preferred Methods.** The following traffic reducing techniques are encouraged when designing streets for the established design speed:
 - (a) *Curvilinear street form, while maintaining a grid pattern.*

- (b) *T-streets or 3-way intersections.*
- (c) *Entry treatments.*
- (d) *Short block lengths.*
- (e) *Tree-lined streets.* Street trees spaced at a distance of 25 to 35 feet apart are encouraged.

§ 152.1000.6 SIDEWALKS

All sidewalks shall be constructed as set forth in the current adopted Standard Street Specifications for the City of Tontitown.

§ 152.1000.7 GRADING AND DRAINAGE

- A. Stormwater Drainage Control Standards.** All grading and drainage shall be designed and developed in conformance with the requirements of the City's current adopted Tontitown Drainage Criteria Standards.
- B. Notice of Intent.** The developer is required to follow application process for storm water prevention plans as currently required by Arkansas Department of Environmental Quality.
- C. Detention and Retention Ponds.**
 - 1. Ownership and maintenance.**
 - (a) **Residential Subdivisions.** Stormwater detention and retention ponds deeded to the city by September 10, 2005 shall be owned and maintained by the City. After September 10, 2005, stormwater detention and retention ponds in new residential subdivisions shall remain under the ownership and maintenance of the property owner during development. Stormwater detention and retention ponds shall be deeded to the property owner's association upon filing of the final plat. Maintenance of the facilities shall be the responsibility of the property owner's association.
 - (b) **Non-residential Development.** Ownership of stormwater detention and retention ponds in new non-residential development shall be vested in the property owner. Maintenance of the facilities shall be the responsibility of the property owner.
 - 2. Platting.** All new detention and retention ponds shall be shown on a final plat as a lot number and drainage easement to allow for inspection and maintenance of the outfall structure by the City. Access to the detention or retention pond shall be shown with a minimum of 18' wide unobstructed drainage access easement between a public street and the pond.
- D. Grading Permits.**
 - 1. Applicability.** Grading permits shall be required for grading, filling, excavation or land alteration of any kind on any site one acre or more in size during the entire construction process, where such activity is not part of an approved preliminary plat or large scale development.
 - 2. Exemptions.** Grading permits shall not be required for the following:
 - (a) **Excavation below Finish Grade.** Excavations below finish grade for basements, footings, swimming pools, hot tubs, septic systems, and like structures authorized by a valid building permit or retaining walls with an approved retaining wall permit.
 - (b) **Cemetery Graves.** Cemetery graves.
 - (c) **Refuse Disposal.** Refuse disposal sites controlled by other regulations.
 - 3. Application.** A separate permit shall be required for each site; it may cover both excavations and fills. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion.
 - (a) **Application Form.** Completed and signed application form.
 - (b) **Fee.** Payment of fee as indicated on the application.

- (c) **Grading Plan.** A grading plan in accordance with the specifications identified in the application and in conformance with all applicable regulations, including but not limited to, the currently adopted stormwater regulations as established by United State Environmental Protection Agency, Region VI published in the Federal Register; the city's currently adopted Stormwater Pollution Prevention and Erosion Control Standards; and the city's currently adopted Stormwater Drainage Control Standards.
- (d) **Warranty Deed.** A copy of the warranty deed showing ownership of property.
- (e) **Recorded Plat.** A copy of the recorded plat of the property, if applicable.
- (f) **Stormwater Pollution Prevention Plan (SWP3).** The Stormwater Pollution Prevention Plan (SWP3) in accordance with the specifications identified in the currently adopted Stormwater Pollution Prevention and Erosion Control Standards.
- (g) **Small Site Notice (less than five acres).** A copy of Arkansas Department of Environmental Quality's (ADEQ) small site notice where construction on a site will disturb soil or remove vegetation on less than five acres during the life of the construction project.
- (h) **NOI (five or more acres).** A copy of the Notice of Intent (NOI) submitted to ADEQ is required at the time of application where construction on a site will disturb soil or remove vegetation on five or more acres. The ADEQ approved National Pollutant Discharge Elimination System (NPDES) permit shall be submitted prior to approval of the grading permit.

4. Review and Approval.

- (a) **Evaluation.** Grading plans shall be evaluated by the City Engineer for conformance with the requirements of all applicable regulations, including but not limited to, the currently adopted stormwater regulations as established by United State Environmental Protection Agency, Region VI published in the Federal Register; the city's currently adopted Stormwater Pollution Prevention and Erosion Control Standards; and the city's currently adopted Stormwater Drainage Control Standards.
- (b) **Variations in Requirements.** Requirements may be varied by the City Engineer with the approval of the Planning Commission. The extent to which variations may be made will depend on the soil types encountered, planned slopes, planned vegetation, and investigative engineering reports. In no case shall the City Engineer waive or modify any of the minimum erosion control requirements.
- (c) **Approval.** No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, engineer, or similar design professional, is approved in writing by the City Engineer.
- (d) **One-Time Approvals.**
 - i. Utilities.* Public and private utility organizations may obtain a onetime approval from the City Engineer for all routine underground electric, water, sewer, natural gas, telephone, or cable facilities. The approval will include a utility organization and its contractors, agents, or assigns and will be permanent in nature as long as the original approved procedures are followed.
 - i. Stockpiling Materials.* One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate, or clay at particular locations, subject to the Zoning Code.

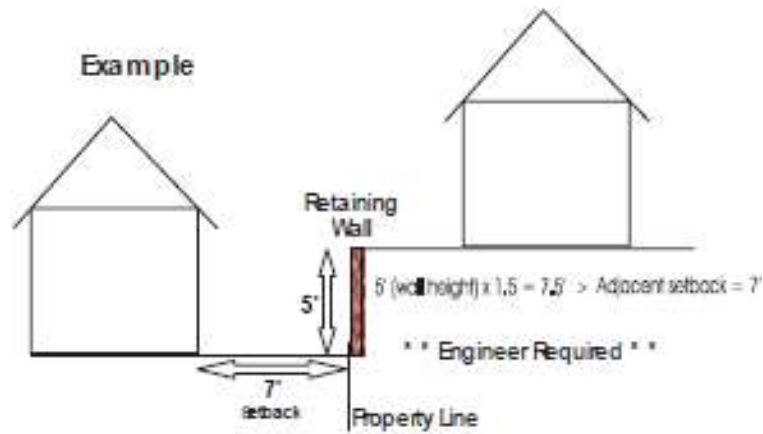
- 5. **Permit Posted.** A copy of the grading permit cover page shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

E. Retaining Walls

- 1. **Applicability.** The requirements of this section shall apply to the construction, installation, extension and replacement of all retaining walls, as defined in city code section 152.200, of more than four (4) feet in height, measured from the final grade at lower-side of wall to the top of the wall, in all zoning districts, except as exempted in 2. Exemptions below.

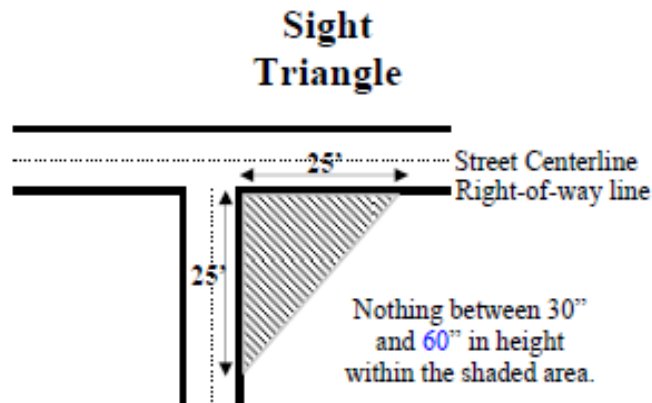
- 2. Exemptions.** Retaining walls that meet the following requirements shall be exempt from these requirements:
- (a) Retaining walls less than four (4) feet in height.
 - (b) Retaining walls designed as part of the primary structure.
 - (c) Retaining walls shown on an approved large scale development plan or preliminary plat.
 - (d) Retaining walls designed as part of a public capital improvement project.
- 3. Permit Required.** A retaining wall permit shall be obtained prior to beginning construction, extension or replacement of all applicable retaining walls.
- (a) *Application.* To obtain a retaining wall permit, a completed application form and a plot plan (site plan) must be submitted to the Community Development Office. The plot plan shall show:
 - i. Location of all property lines;
 - ii. Location of all existing and proposed structures;
 - iii. Location of existing retaining walls on or adjacent to the property that is to remain in place, if applicable;
 - iv. Portions of existing retaining wall that will be replaced, if applicable;
 - v. Location of new retaining wall;
 - vi. Location of utilities and utility easements; drainage easements and drainageways
 - vii. Construction details to include, but not limited to, dimensions, crosssection, and footing design;
 - viii. Elevations above and below the retaining wall;
 - ix. A note indicating the height of the proposed retaining wall and the material;
 - x. Engineer's certification, if required; and
 - xi. Additional information may be requested from staff after initial review.
 - (b) *Review and Approval.* Once all the required information is submitted, it shall be reviewed by Community Development for compliance. If the application is approved, the applicant shall pay the permit fee and the retaining wall permit will be issued.
 - (c) *Compliance.* All retaining walls shall be installed in compliance with the retaining wall regulations and with the information shown on the approved plot plan and retaining wall permit application form.
 - (d) *Inspection Required.* The applicant shall contact Building Inspections to request a final inspection upon completion of the retaining walls. If the building inspector determines that the retaining wall is constructed in accordance with the ordinance requirements and the approved retaining wall permit, a Certificate of Compliance will be issued. If the retaining wall does not pass the inspection, the building inspector shall prepare an inspection report detailing the deficiencies.
- 4. Engineer Certification Required.** An engineer's design, certification and construction observation shall be required in the instances listed below. All engineering services shall be performed under the supervision of a Professional Engineer registered in the State of Arkansas.
- (a) Any retaining wall over four (4) feet in height where 1.5 times the height of the wall is either
 - (1) greater than or equal to the building setback of an adjacent lot, or (2) such distance encroaches on any structure.

Height of wall X 1.5 ≥ Adjacent Setback



(b) Any retaining walls over four (4) feet in height located adjacent to a public right-of-way.

5. **Private Property.** All retaining walls shall be located on private property and shall be built with the consent of the property owner. The retaining wall installer and/or property owner shall be responsible to correctly locate property boundaries. Retaining walls shall not encroach neighboring property lines.
6. **Sight Triangle.** Retaining walls over 30" constructed near street intersections shall not be located in the "sight distance triangle", shown below, in order to provide a reasonable degree of traffic visibility.

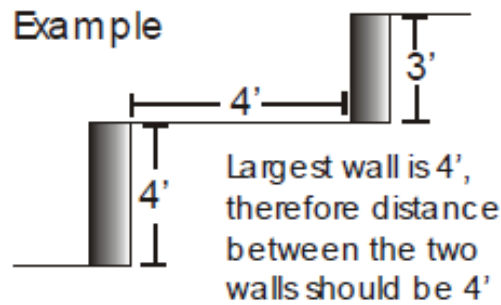


7. Easements

- (a) *Utility Easements.* Retaining walls shall not restrict access to utilities. Retaining walls proposed in a utility easement shall be approved on a case by case basis.
- (b) *Drainage Easements.* Retaining walls shall not impede the normal flow of storm water and shall not cross an open drainage channel. Retaining walls proposed in drainage easements shall be approved on a case by case basis.
- (c) *Access Easement.* Retaining walls shall not be constructed over a public or private access easement.

8. **Terraced Retaining Walls.** If walls are terraced, the upper wall shall be located no closer to the lower wall than 1.0 times the height of the tallest wall.

Height of largest wall x 1.0 = Distance between walls



- F. Slopes.** Slopes of 1:1 or steeper shall be required to comply with the retaining wall regulations above.
- G. Construction and Installation.** The construction and installation of concrete segmental retaining wall systems shall comply with Concrete Segmental Retaining Walls System manufacturer's specifications .

§ 152.1000.8 OPEN SPACE

The Planning Commission will determine whether the open space, as shown on the plat and/or development plan meets the requirements of this section.

- A. Multifamily Residential.** Any multifamily development is required to provide twenty (20) square feet of open space per unit. This requirement includes large scale development and subdivisions which are zoned for multifamily use.
- B. Single-family and Duplex.** Single family and duplex developments are not required to provide open space.
- C. Landscaping.** Landscape buffers as required by city code section 152.1300, Landscape, Screening and Buffering may not be used to satisfy the open space requirement. While no specific landscaping is required, the area must be seeded and maintained as a grassy area. The open space must be one contiguous area unless the Planning Commission approves a variation in design. The lawn and any additional landscaping must be maintained as provided in city code section 152.1300.14 Landscape Installation Requirements and city code section 152.1300.11 Enforcement and Maintenance.
- D. Impervious Surfaces.** Planning Commission approval is required if more than 10 percent of the designated open space is to be covered by an impervious surface.
- E. Detention Basins.** Detention basins for storm water may be used if they are designed for recreational use.

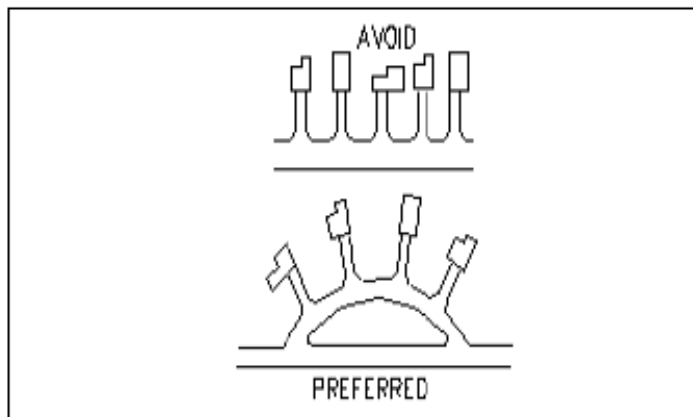
§ 152.1000.9 ACCESS REQUIREMENTS

This section is intended to implement access management standards of the City of Tontitown. In addition, this section conforms with policies and objectives of the NWARPC Metropolitan Planning Organization's long range transportation plan, the authority to control access to property as derived from Arkansas State Statutes, the policy and planning directives of the federal Intermodal Surface Transportation Efficiency Act of 1991, and the Transportation Equity Act for the 21st Century. These regulations apply to all new development and construction.

A. Curb Cuts

1. **City Approval.** Property owners desiring curb cuts off of City streets or AHTD highways, not associated with an approved large scale development plan or subdivision, must obtain a letter of approval from the office of the City Engineer prior to installation of said curb cut/driveway.
 2. **Width.** Ingress-egress openings in concrete, asphalt, rock, or other street curbing, commonly referred to as “curb cuts” shall be not less than twenty four (24) feet nor more than forty (40) feet in width for nonresidential uses unless approved by the City Engineer.
 3. **Distance from Intersections.** Curb cuts or access points shall be no closer than one hundred (100) feet measured from the right-of-way of intersecting collector streets to the center line of the drive, and no closer than two hundred fifty (250) feet measured from the right-of-way of an intersection involving a principal or minor arterial to the center line of the drive. Exceptions may be made where lot size or geometry may prohibit these requirements.
 4. **Offset.** Either the centerline of opposing nonresidential driveways shall align, or shall be offset no less than seventy-five (75) feet. This condition shall not apply where a permanent median exists without break for these driveways.
 5. **Number of Curb Cuts Permitted.** Unless otherwise specified by this ordinance, the maximum number of curb cuts for each property shall be two.
 6. **Distance between Curb Cuts.**
The minimum distance between drives shall be 25 feet.
 7. **Curb Radius.** To ensure safe turn movements, turning radii for commercial drive curb cuts should be at least 15’ for curb cuts along streets designated on the City of Tontitown’s Master Street Plan. Exceptions may be granted through a waiver to the Planning Commission for shorter radii in the downtown area and for larger radii needed where there may be a need to accommodate truck traffic.
- B. Entrance/Exit and Parking Design.** Landscaping, curbing, or other approved barriers shall be provided along boundaries to control entrance and exit of vehicles or pedestrians. All parking facilities, except those serving single-family detached and two-family dwellings shall be designed so that all existing movements onto a public street are in a forward motion.
- C. Residential and Subdivision Access.** No residential lot shall be permitted direct access to a collector, minor, or principal arterial street. All residential subdivision development contiguous to a collector, minor, or principal arterial street shall orient frontage to a local street, and back the project, without access to the said major streets (see figure below). All subdivisions with 30 or more lots shall have two access points.

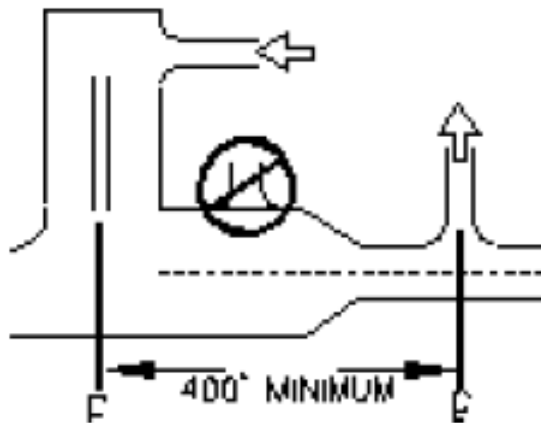
Residential Lot Access



- D. Acceleration & Deceleration Lanes.** Site plans for all commercial development, residential subdivisions, and multifamily dwellings on Collector, Minor Arterial, and Principal Arterial streets will be analyzed by the City for critical traffic conditions for both the initial opening and full development of the site. AHTD deceleration lanes are required for single and combined uses that

generate driveway volumes (trip ends) of 300 or more vehicles in the peak hour, as determined using standard Institute of Transportation Engineers (ITE) trip generation rates for the subject land use(s). Additional development, requiring a building permit, which would generate driveway volumes (trip ends) of 300 or more vehicles in the peak hour shall require the installation of an AHTD approved deceleration lane. Four hundred (400) feet minimum spacing between drives, measured center line to center line or from the right-of-way intersecting lines of public streets to the center line of a curb cut, is required when deceleration lanes designed in accordance with the Arkansas Highway and Transportation Department are required. (see figure below), Deceleration Lane, depicts an example of a deceleration lane. Construction of driveways along acceleration lanes, deceleration lanes, and tapers is discouraged due to the potential for vehicular weaving conflicts.

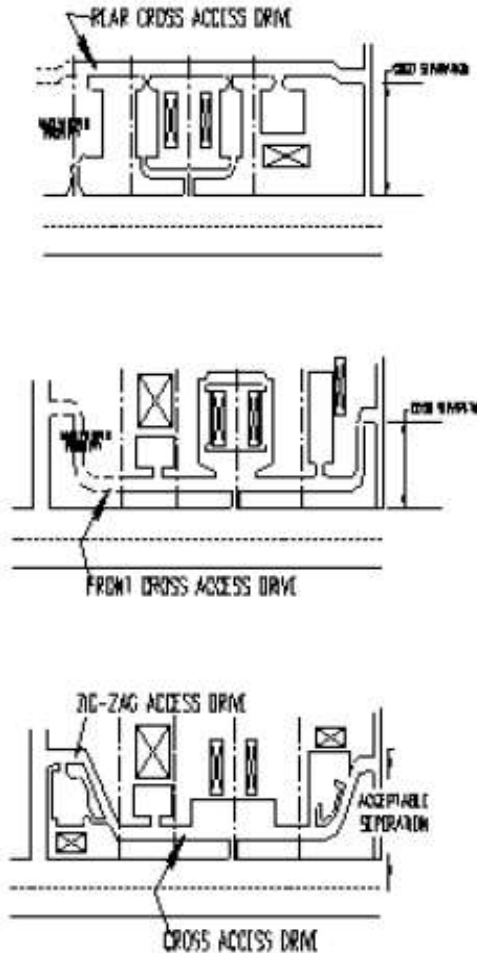
Deceleration Lane



E. Joint & Cross Access

- 1. Major Traffic Generators.** Adjacent commercial or office properties classified as major traffic generators (i.e. shopping plazas, office parks), shall provide a cross access drive and pedestrian access to allow circulation between sites.
- 2. Techniques.** A system of joint use driveways and cross access easements as shown in the figure titled “Cross Access Corridor Design” shall be established wherever feasible in commercial zoning districts along streets designated on the City of Tontitown’s Master Street Plan and the building site shall incorporate the following:
 - (a) A continuous service drive or cross access corridor extending the entire length of each property served to provide for driveway separation consistent with the curb-cut standards.
 - (b) A design speed of 10 mph and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles;
 - (c) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive;
 - (d) A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible.

Cross Access Corridor Design



3. **Shared parking.** Shared parking areas shall be permitted to reduce required parking if peak demand periods for proposed land uses do not occur at the same time periods (i.e. bank & movie theater).
4. **Documentation.** Pursuant to this section, property owners shall:
 - (a) *Access Easement.* Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;
 - (b) *Access Agreement.* Record an agreement with the deed that remaining access rights along the thoroughfare will be dedicated to the City of Tontitown and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway.
 - (c) *Maintenance Agreement.* Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
- F. **Reduction in Separation Distance.** The City Engineer may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 1. Joint access driveways and cross access easements are provided wherever feasible in accordance with this section.
 2. The site plan incorporates a unified access and circulation system in accordance with this section.
 3. The property owner shall enter a written agreement with the City of Tontitown, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

G. Waivers. The City Engineer or Planning Commission may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical.

H. Nonconforming Access Features

1. **Existing.** Permitted access connections in place as of the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
 - (a) When new access connection permits are requested;
 - (b) Substantial enlargements or improvements;
 - (c) Significant change in trip generation; or
 - (d) As roadway improvements allow.
2. **Discontinued Use.** If the principal activity on a property with nonconforming access features is discontinued for a consecutive period of 180 days then that property must thereafter be brought into conformity with all applicable connection spacing and design requirements, unless otherwise exempted by the City Engineer. For uses that are vacant or discontinued upon the effective date of this code, the 180 day period begins on the effective date of this code.

§ 152.1000.10 DRIVEWAY DESIGN

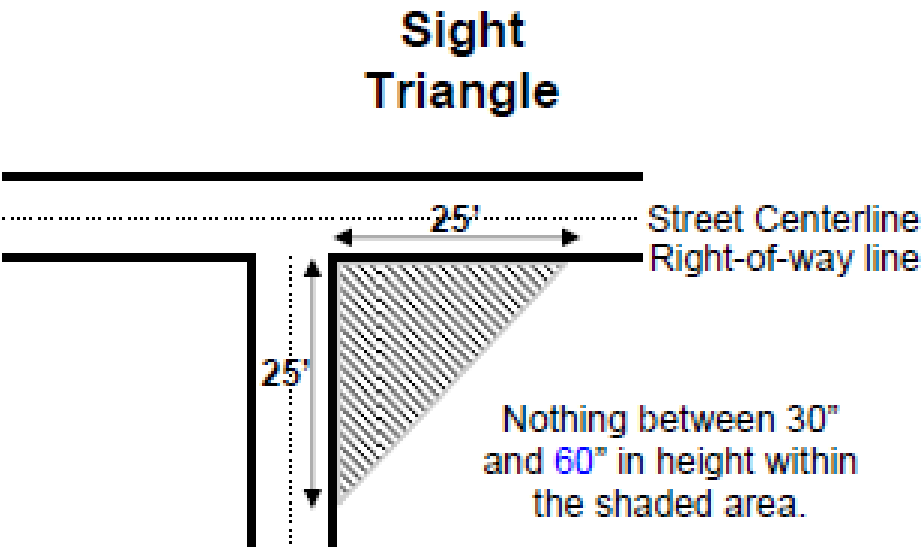
A. Driveway Width. Commercial, industrial, and multi-family driveway widths shall meet the following guidelines:

1. **One-way in or out.** If the driveway is an one-way in or one-way out drive, then the driveway shall be a minimum width of 16 feet and shall have appropriate signage designating the driveway as a one-way connection.
2. **Two-way.** For two-way access, each lane shall have a width of 12 feet and a maximum of three lanes shall be allowed. Whenever more than two lanes are proposed, entrance and exit lanes shall be divided by a raised median. The median shall be four (4) feet wide and conform to AHTD standard detail for curbed islands.
3. **Minor or Principal Arterials.** Driveways that enter a minor or principal arterial at traffic signals must have at least two (2) outbound lanes (one for each turning direction) of at least 12 feet in width, and one in-bound lane with a 14 foot width.

B. Driveway Grades. Driveway grades shall conform to the recommendations of the Center for Urban Transportation Research as shown in the table titled “Maximum Drive Grades.” Maximum grade changes between roadway cross-slope and driveway slope shall not exceed the grades listed below. The cross slope of the driveway shall meet the cross-slope of the sidewalk, which shall have a slope of no more than 2%.

Maximum Drive Grades	
Roadway	Driveway Grade
Principal Arterial	5 %
Minor Arterial	6 %
Collector	7 %
Local	10 %

C. Sight Triangle. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Any plantings or structures in the site triangle must not exceed 30” in height as shown below.

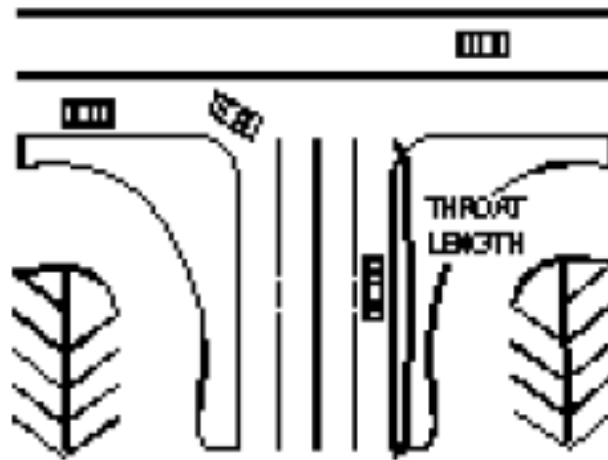


D. Throat Length. The length of driveways or “Throat Length” shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. General standards appear in the table below titled “Generally Adequate Driveway. Throat Lengths”, but may vary according to the projected volume of the individual driveway. These measures generally are acceptable for the principle access to a property and are not intended for minor driveways. The figure titled “Driveway Throat Length,” depicts an example of adequate throat length. Variation from these shall be permitted for good cause upon approval of the City Engineeror Planning Commission.

Generally Adequate Driveway Throat Lengths	
Development Type	Driveway Throat Length
Shopping Centers > 200,000 GLA* (Signalized) (800 spaces)	200'
Smaller Developments < 200,000 GLA* (Signalized)	75'-95'
Unsignalized Driveways	40'-60'

*GLA-Gross lease-able area

Driveway Throat Length



E. Driveway Design, Location, and Construction Standards for Four (4) or Less Spaces Parking Spaces within the Front Yard Area

1. Minimum Distance of Driveway and Parking from Street and into Property.

(a) Driveway Approach. All driveways shall be paved from the edge of road with concrete, brick or stone pavers, or other solid surface and shall extend 20 feet (length) into the property from the existing right- of- way or the right- of- way as set forth in the Tontitown Master Street Plan unless no parking is provided between the property line and structure. This requirement does not apply for approaches from unpaved roads.

(b) Driveways Beyond 20 Feet into the Property. Driveways beyond 20 feet into the property may be paved or unpaved and shall be clearly defined by landscaping or edging.

- 1. Unpaved Driveway Maintenance Requirements.** If an unpaved driveway is not maintained with adequate gravel, grasses, or other plants and/or landscaping materials to keep the area from becoming rutted, muddy and/or soil from being blown or washed away and is identified as a violation of this provision, such driveway shall be immediately remedied by the property owner.
- 2. Driveway Grading and Drainage.** The driveway shall be graded in such a way to dispose of surface water into appropriate structures.

§ 152.1000.11 OUTDOOR LIGHTING

A. Purpose and Intent. The regulations for outdoor lighting are intended to:

1. minimize light pollution for the enjoyment of Tontitown citizens and visitors;
2. limit the degradation of the nighttime visual environment by production of unsightly and dangerous glare;
3. minimize urban sky-glow to help protect the scenic view of the night sky;
4. reduce light trespass onto neighboring properties; and
5. allow for flexibility in the style of lighting fixtures.

B. Applicability. The outdoor lighting regulations apply to:

1. All new construction, except single family and duplex residential uses.
2. All new outdoor lighting fixture installations, except single family and duplex residential uses.
3. All replacement fixtures, in cases of total replacement.

C. Exemptions. The following conditions are exempt from these requirements:

1. The temporary use of low wattage or low voltage lighting for public festivals, celebrations, and the observance of holidays are exempt from regulation except where they create a hazard or nuisance from glare. Temporary use permits are required for commercial activities such as carnivals in accordance with supplemental Regulations of Chapter 153 (Tontitown Zoning Code). Where possible, lighting should be Cutoff.

2. Temporary emergency lighting, used by police, firefighting or medical personnel for as long as the emergency exists.
3. Routine maintenance, including changing the lamp ballast, starter, photo control, fixture housing, lens and other required components.
4. Airport lighting provided the owner or occupant demonstrates that the Federal Aviation Administration (FAA) regulations can only be met through the use of lighting that does not comply with this code.
5. Neon lights only as permitted by the sign regulations.
6. Illuminated signs only as permitted by the sign regulations.
7. The outdoor illumination of digital signs, specifically excluding billboards, in compliance with City Code Chapter 153 (Tontitown Zoning Code).

D. Prohibitions. The operation of searchlights for advertising purposes is prohibited.

E. Standards.

1. **Cutoff Required.** All nonexempt outdoor light fixtures with an initial output greater than or equal to 2,000 lumens shall be Cutoff or Full Cutoff, as defined by IESNA.
2. **Installation.** All outdoor light fixtures that have Cutoff restrictions shall be installed and maintained in such a manner as to be horizontal to the ground so that the Cutoff characteristics of the fixture are maintained.
3. **Shielding.** Beyond the Cutoff requirements in Section E.1 above, all light fixtures shall be located, aimed or shielded so as to minimize light trespass across property boundaries. Where applicable, all commercial installations shall utilize house side shielding to minimize light trespass on residential properties.

F. Special Use Standards.

1. **Landscape/Facade Lights.** Landscape and facade lighting fixtures shall be selected, located, aimed and shielded so that direct illumination is focused solely on the building façade, plantings, and other intended site feature, and away from adjoining properties and the public street right-of-way. Down-lighting is encouraged.
2. **Recreational Facilities.**
 - (a) **Cutoff Exemption.** Recreational facilities are exempt from the Cutoff requirement in E.1 above, however, the use of Cutoff fixtures is encouraged. The shielding requirement in E.3 above is applicable to recreational facilities.
 - (b) **Glare Control.** All outdoor recreational facilities lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixture shall be aimed so that the beams are directed and fall within the primary playing or performance area.
 - (c) **Hours.** All activity and lights shall be turned off one hour after the end of the last event.
3. **Canopy Structures.** Canopy lights, such as service station lighting, shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes glare on public rights of way or adjacent properties.
4. **Flags.** Governmental flags should be taken down at sunset to avoid the need for lighting. If flags remain up overnight, they should be lighted. Up-lighting of governmental flags should have a maximum lumen output of 1,300 lumens with a cone of light directed on the flag itself. Down-lighting of flag poles is encouraged.

G. Nonconforming Outdoor Light Fixtures.

1. All nonconforming outdoor light fixtures lawfully installed prior to and operable on the effective date of this ordinance are exempt from all outdoor lighting requirements.
2. In the event that an outdoor lighting fixture is abandoned or damaged to the point of requiring repairs for safe operation, the repaired or replacement fixture shall comply with the provisions these regulations.

§ 152.1000.12 RESERVED –

§ 152.1000.13 DESIGN STANDARDS FOR LARGE SCALE DEVELOPMENTS

- A. Purpose and Intent.** The design standards in this section are intended to implement the city's vision for commercial development. The intent of these standards is to improve the overall quality of commercial development with surrounding land uses and enhance pedestrian safety and walkability.
- B. Applicability.** The provisions of this section shall apply to all developments requiring large scale development approval. Properties shall only be required to meet the standards for the side(s) facing a street frontage.
- C. Exemptions.** - Reserved
- D. Review Process.** These standards shall be applied in the normal review process for large scale developments and shall be approved by the Planning Commission.
- E. Building Design.**
- 1. Material.** The primary material shall constitute at least 75 percent of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, textured concrete block, Stucco, EIFS, or natural stone. The standard shall apply to all sides facing street of any building. The remaining exterior material shall be considered building trim. Trim is defined as an ornamental design feature, that when removed does not significantly alter the appearance of the building. This commonly consists of moldings, cornices, parapet, frieze, sills, lintels, stringcourse, quoining, and ledgement. No Masonite, asphaltic exterior wall or roof material, aluminum or steel siding (other than approved architectural metal), non-textured concrete block (ground-faced is allowed), vinyl or other similar materials shall constitute a portion of any building except trim.
 - 2. Color.** The building's exterior color scheme shall utilize primarily muted, neutral, or earth tone type colors. The primary use of bright, intense, or extreme colors not consistent with the adjoining developments shall not be permitted. This regulation is not intended to prohibit the use of these colors for specifically approved architectural detailing.
 - 3. Compatibility.** All commercial structures shall be designed in a manner compatible with other structures in the surrounding vicinity. The exterior building design, including roof style, color, materials, architectural form and detailing, shall be consistent among all buildings in a common commercial development and on all elevations of each building to achieve design harmony and continuity within itself.
 - 4. Scale and Bulk.** The height and scale of new buildings shall be consistent or compatible with the height and scale of adjacent buildings. Special care, however shall be taken to achieve the compatibility of larger buildings next to small scale buildings; techniques shall include limited size, building articulation, and shadow patterns. The scale of the building shall also consider building setback, lot size and relationship to street width.
 - 5. Wall Articulation.** Buildings shall avoid long uninterrupted façade planes and/or blank walls. All commercial building with facades greater than 200 feet in length shall incorporate wall plane projections or recess that are at least two (2) feet deep. Projections/recess must be at least 25% of the length of the façade. No uninterrupted length of a façade may exceed 100 feet in length.
 - 6. Facades.** All commercial structures shall be architecturally finished on all sides facing a street with same materials, detailing, and features when visible from the public realm or adjacent residential areas. The degree of visibility from the public realm shall be evaluated using the following criteria:
 - (a) The degree of visibility from all adjacent public ways;
 - (b) Possible visibility from future buildings and public ways; and
 - (c) Internal overall appearance in relation to the site.

7. **Roofs.** Roof lines and/or parapets shall be varied with a change in height every 100 linear feet in the building length. Parapets, gable roofs, high roofs, or dormers shall be used to conceal flat roofs and rooftop equipment from public view. Alternative lengths and designs may be acceptable and may be approved by Planning Commission.
8. **Entrances.** Each primary building on a site, regardless of size, shall have clearly defined, highly visible customer entrances featuring no less than two (2) of the following:
 - (a) Canopies or porticos;
 - (b) Overhangs;
 - (c) Recesses/projections;
 - (d) Arcades;
 - (e) Raised corniced parapets over the door;
 - (f) Peaked roof forms;
 - (g) Arches;
 - (h) Architectural detail such as tile work and moldings integrated into the building structure and design;
 - (i) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting; or,
 - (j) Other architectural features approved by Planning Commission.
9. **Architectural Details.** All buildings except in agriculture and industrial zones shall be designed to incorporate no less than three (3) of the architectural elements from the list below, in addition to regulations regarding the design of entrances above. Buildings over fifty thousand (50,000) square feet shall include a minimum of five (5) of the referenced architectural elements. Buildings over one hundred thousand (100,000) square feet shall include a minimum of six (6) of the referenced architectural elements.
 - (a) Canopies, awnings, or porticos;
 - (b) Recesses/projections;
 - (c) Arcades;
 - (d) Peaked roof forms;
 - (e) Arches;
 - (f) Display windows;
 - (g) Accent materials (minimum of 15% of exterior façade);
 - (h) Architectural details (such as tile work and moldings) integrated into the building façade;
 - (i) Articulated cornice line;
 - (j) Articulated ground floor levels or base;
 - (k) Varied roof heights; or,
 - (l) Other architectural features approved by Planning Commission.

F. Utility and Mechanical Equipment Screening

1. Screening of service yards, utility meters and hardware, mechanical equipment, refuse areas, and/or other potentially unattractive places from public view, shall be accomplished by the use of walls, fencing, planting, or a combination of the measures that follow. Screening shall be equally effective in the winter and the summer seasons. For rooftop equipment, parapet walls or other screening methods approved by Planning Commission are required along street frontages and bordering residential areas.
 - (a) Adjusting the architectural or landscape profile to screen those elements from view.
 - (b) Placing those elements on service courts or other locations usable by the general public.
 - (c) Integrating those elements into the architecture or landscaping of the site.
2. The degree of visibility and screening of service yards, utility meters and hardware, mechanical equipment, refuse areas, and/or other potentially unattractive places shall be evaluated using the following criteria:
 - (a) The degree of visibility from all adjacent public ways;

- (b) The architectural compatibility of the design and color of the yards, meters and equipment of the building;
- (c) Possible visibility from future buildings and public ways; and
- (d) Internal overall appearance in relation to the site.

G. Site Planning

1. **Building Placement.** Place as much of the building width at the front of the lot as possible to maximize front façade exposure to the public. The front façade shall be kept parallel with the street. On corner lots, place as much building mass near the intersection as possible to help anchor the lot and take advantage of high visibility.
2. **Parking Placement.** No more than 60% of the off-street parking area for the entire property shall be located between the front façade within the front yard of the principal building and the primary abutting street unless the principal building and/or parking lots are screened from view by outlot development and additional tree plantings or berms. Whenever possible, attempt to link with adjacent parking lots or provide shared parking areas which can serve neighboring buildings simultaneously. Parking lots shall be designed in regular, rectangular shapes.
3. **Pedestrian Circulation.** Clearly defined pedestrian walkways or paths shall be provided from parking areas to primary building entrances. Design walkways and parking lots so that pedestrians do not have to cross parking aisles and landscape islands to reach building entries. All internal walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Painted crosswalks shall not be considered sufficient definition of the pedestrian path from the driving surface.
4. **Site Amenities.** Each commercial development shall contribute to the establishment or enhancement of the community and public spaces by providing at least two (2) of the amenities listed below. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.
 - (a) Patio, seating area;
 - (b) Pedestrian plaza with benches;
 - (c) Mini park, square or green;
 - (d) Transit stop;
 - (e) Public art;
 - (f) Window shopping walkway;
 - (g) Outdoor play area;
 - (h) Kiosk area;
 - (i) Water feature;
 - (j) Clock tower or steeple; or
 - (k) Any other deliberately shaped area and/or focal feature that, in the Planning Commission's judgment adequately enhances such development and serves as a gathering place.

§ 152.1000.14 AESTHETICS FOR WIRELESS COMMUNICATION FACILITIES (WCF)

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

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

1. 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.

2. 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.

B. 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:

1. 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.
2. 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.
3. 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.

ARTICLE 152.1100 IMPROVEMENTS

§ 152.1100.01 GENERAL PROVISIONS.

(A) *Generally.* The subdivider shall be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed subdivision, in accordance with § 152.1100.02 Determining Necessity for Off-Site Improvements. For purposes of this section, an offsite improvement shall mean any improvement listed in these regulations which are to be installed on property located outside the proposed subdivision.

(B) *Installation.* Any required off-site improvements shall be installed according to city standards; provided off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be installed to county standards. The subdivider shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the subdivision.

(C) *Proportionate share.* At the time the Planning Commission grants preliminary plat approval, the Planning Commission shall determine whether the proposed subdivision creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the subdivider shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the subdivider shall be required to bear the Planning Commission shall consider the acreage within the proposed subdivision as a percentage of all the acreage which, when fully developed will benefit from the offsite improvements; provided, the Planning Commission may use a different method of measurement if it determines that use of the acreage standard will not result in the subdivider bearing that portion of the cost which bears a rational nexus to the needs created by the subdivision.

§ 152.1100.02 DETERMINING NECESSITY FOR OFF-SITE IMPROVEMENTS.

(A) *Indirect access to substandard streets.* When a proposed subdivision has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the subdivision to the paved streets or roads, the subdivider shall be responsible for contributing his proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The subdivider's proportionate share of said costs shall be determined by the Planning Commission in accordance with the provisions of § 152.1100.01.

(B) *Direct access to substandard streets.* When a proposed subdivision has direct access to, or fronts on, an existing road or street which is below current standards, the subdivider shall be responsible for contributing his proportionate share of the cost of improving said street or road to existing city standards. The Planning Commission shall determine the subdivider's proportionate share of said costs in accordance with the provisions of § 152.1100.01.

(C) *Off-site drainage.* Off-site drainage improvements shall be required whenever a proposed subdivision causes the need for such improvements.

§ 152.1100.03 FEE IN-LIEU FOR DELAYED IMPROVEMENTS.

If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the subdivider shall pay to the city an amount determined by the Planning Commission in accordance with the standards prescribed in § 152.1100.01 above to be the developer's proportionate share of the cost of said off-site improvements as of the date of final plat approval. The city shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed. If the off-site improvement is not constructed within five years from the date of the first payment into the escrow account by a subdivider, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

(A) Determine that the off-site improvement is still necessary and feasible and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or

(B) Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall either:

(1) Refund the money in the escrow account, with accumulated interest, to the subdividers who made the contributions; or

(2) Distribute the money in the escrow account on a pro rata basis to the property owners who purchased lots in the subdivision(s) and the subdivider(s); or

(3) With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the subdivider(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.

§ 152.1100.04 WAIVERS.

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

(A) *No plans for upgrading.* The city has no plans for upgrading the substandard street or road on which off-site improvements are proposed to be required by the subdivider.

(B) *Primary access to improved streets.* The proposed subdivision has primary access to improved streets or roads and the portion of the subdivision which fronts on a substandard street or road is so small or remote from anticipated future traffic patterns as to cause an unfair imposition on the subdivider.

(C) *Alternate off-site improvements.* The subdivider proposes alternative off-site improvements which will protect the health, safety and welfare of persons residing in the proposed subdivision and the surrounding area and equally benefit said persons.

§ 152.1100.05 OFF-SITE IMPROVEMENTS TO STATE HIGHWAYS AND HIGHWAYS MAINTAINED BY THE STATE HIGHWAY AND TRANSPORTATION DEPARTMENT.

The subdivider shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed subdivision into conformance with the right-of-way requirements of the Master Street Plan. The subdivider shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed subdivision; provided, the subdivider shall be permitted to make a cash contribution in lieu of actual installation, which contribution shall be an account equivalent to the estimated cost of constructing the required sidewalk as of the date of final plat approval; and, provided further, that the Planning Commission may waive the sidewalk requirement prescribed by this section upon application by the subdivider and a determination by the Planning Commission that the topography of the proposed subdivision where it abuts a state highway is such that installation of a sidewalk is not practical. No other improvements to state highways shall be required of the subdivider unless required by the State Highway and Transportation Commission.

§ 152.1100.06 PERFORMANCE GUARANTEES.

At or prior to the preconstruction conference with the city, the owner/developer shall provide to the Building Official a performance guarantee for off-site improvements in compliance with § 152.300.11.

ARTICLE 152.1200 TREE PRESERVATION AND PROTECTION

§ 152.1200.01 PURPOSE.

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

§ 152.1200.02 OBJECTIVES.

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

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

§ 152.1200.03 ADMINISTRATION AND APPEALS.

(A) *Administration.* The Building Official or his or her designee(s) shall be charged with the general administration of this chapter. The Planning Commission will be available for consultation and recommendations to aid in administration of this article.

(B) *Appeals.* Appeals from the decisions of the Building Official shall be in writing to the Planning Commission, unless otherwise herein. Notice of appeal should be addressed to the City Clerk and filed within ten days of the decision of the Building Official.

§ 152.1200.04 TREE PLANTING, MAINTENANCE AND REMOVAL.

(A) *City action.* The city shall have the right to plant, prune, maintain, and remove trees within all street rights-of-way, alleys, squares, and other public grounds, as may be necessary for the following purposes:

- (1) To increase visibility of any traffic control device or sign.
- (2) To preserve or enhance the symmetry and beauty of such public grounds.
- (3) To ensure street lighting properly spreads along the street.

(B) *Standards.* All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the City of Tontitown Landscape Manual, which will be established and periodically reviewed by the Planning Commission.

(1) It shall be a violation of this chapter to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill or any other thing to any such tree.

(2) It shall be unlawful for any person to top or cut back to stubs the crown of any tree in street rights-of-way or on other public grounds.

(3) Trees shall not be planted to conceal a fire hydrant from the street or impede the line of sight on any street.

(4) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this article.

(C) *Notification.* Trees may not be planted in or removed from street rights-of-way or on other public grounds without notification to the Building Official; and, providing the selection and location of said trees are in accordance with the guidelines of this chapter.

(D) *Training.* City employees performing tree work on public grounds shall attend an educational workshop on basic tree science and the proper techniques of tree pruning. A certificate will be issued when an individual has successfully completed the workshop.

§ 152.1200.05 PENALTY.

Unless contradictory to any penalty set forth herein above, any person violating any provision of this chapter or who fails to comply with any notice issued pursuant to the provision of this chapter, upon conviction or a plea of guilty, shall be subject to a fine not less than \$25 nor more than \$1000 for each separate offense.

§ 152.1200.06 STOP WORK ORDER.

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

§ 152.1200.07 SEVERABILITY.

(A) Should any section, clause or phrase of this chapter be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so invalidated.

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

ARTICLE 152.1300 LANDSCAPING, SCREENING AND BUFFERING

§ 152.1300.01 PURPOSE.

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

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

§ 152.1300.02 OBJECTIVES.

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

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

§ 152.1300.03 APPLICABILITY.

The requirements of this chapter shall apply to:

- (A) *New development.* All new public, private, and institutional developments.
- (B) *Additions.* All additions to existing buildings.

§ 152.1300.04 EXEMPTIONS.

(A) *Residential.* Single family residential and duplex residential are exempt from these regulations with the exception of § 152.1300.10 Residential Landscaping.

(B) *Previous approval.* Previously approved developments, which have been given a permit to begin building construction are exempt.

§ 152.1300.05 GENERAL PROVISIONS.

(A) *Sight distances.* Safe sight distances at intersections and points of access must be maintained. No landscaping shall constitute a hazard to traffic including, but not limited to landscaping located within the sight triangle of an intersection.

(B) *Wheel stops.* Except as provided below, all project landscape areas at the front line of off-street parking spaces may be protected from encroachment or intrusion of vehicles through the use of wheel stops.

(1) *Minimum height.* Wheel stops shall have a minimum height of six inches above finished grade of the parking area.

(2) *Anchoring.* Wheel stops shall be properly anchored and shall be continuously maintained in good condition by the property owner.

(3) *Location.* Wheel stops shall not be placed in locations of anticipated pedestrian traffic.

(C) *Soil and climatic conditions.* Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for the growth habits. Plants used in the landscape design shall to the greatest extent be:

(1) Appropriate to the conditions in which they are to be planted;

(2) Have non-invasive growth habits;

(3) Encourage low maintenance, high-quality design; and

(4) Be otherwise consistent with the intent of this chapter.

(D) *Replacement.* Vegetation planted or preserved according to an approved plan shall remain alive for a minimum of three years from date of certificate of occupancy. Vegetation planted or preserved that does not remain alive for three years shall be replaced with equivalent vegetation. Preserved trees for which credit was awarded but which subsequently die, shall be replaced in accordance to the Tree Preservation Credits table in § 152.1300.13 Tree Preservation Credits.

(E) *Irrigation.* Required landscaping shall be irrigated by one of the following methods:

(1) An underground sprinkling system;

(2) Automatic drip system; or,

(3) A hose attachment within 100 feet of all landscaped areas.

§ 152.1300.06 LANDSCAPE PLANS.

(A) The landscaping plan is required to address three requirements:

(1) Street frontage buffer as required in § 152.1300.07;

(2) Interior parking lot landscaping as required in § 152.1300.08; and,

(3) Perimeter landscaping as required in Sec. 152.1300.09.

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

(1) *Existing vegetation.* Location, general type and quality of existing vegetation, including specimen trees.

(2) *Preservation.* Existing vegetation to be saved.

(3) *Protection.* Methods and details for protecting existing vegetation during construction and approved sediment control plan, if available.

(4) *Proposed plants.* Locations and labels for all proposed plants.

(5) *Landscape details.* Plant lists with the botanical and common names, quantity, spacing and size of all proposed landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.

(6) *Installation details.* Planting and installation details as necessary to ensure conformance with all required standards.

(7) *Sight triangle.* The sight triangle, as described in § 152.1300.05 (A) Sight Distances, shall be indicated on the plan with a dimensioned shaded area.

(8) *Irrigation.* The plans shall indicate the type of irrigation to be used, in accordance with § 152.1300.05 (E). If a hose bib is proposed, the location shall be shown on the plan.

(9) *Three-year guarantee.* Guarantee from the developer that all plant materials will be warranted for a period of three years from the time of installation. If any of the material should fail to survive during that period it would be replaced during the appropriate planting season.

§ 152.1300.07 LANDSCAPED STREET FRONTAGE BUFFER.

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

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

(1) When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians therefore creating a safer environment.

(2) It also provides an aesthetically pleasing transition from the public right-of-way to private property.

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

(C) *Buffer options.* The site plan for any development, other than that exempt in § 152.1300.04 Exemptions, shall show a landscaped street frontage buffer along all public rights-of-way. The applicant may choose one or a combination of five options illustrated below to meet the particular site constraints of the development.

(1) *Ten foot buffer strip.*

(a) Minimum width. Ten feet.

(b) Minimum number of trees required. One shade tree and one ornamental tree per 25 linear feet of street frontage.

(c) Minimum number of shrubs. Ten shrubs per 25 linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(2) *Earth berm.*

(a) Minimum height. Two and one-half feet higher than the finished elevation of the parking lot.

(b) Minimum number of trees. One shade tree and one ornamental tree per 25 linear feet of street frontage.

(c) Minimum number of shrubs. Three shrubs per 25 linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(3) *Six foot buffer strip.*

(a) *Minimum width.* Six foot landscaped street buffer with three feet of fall.

(b) *Minimum number of trees.* One shade tree and one ornamental tree per 25 linear feet of street frontage.

(c) *Minimum number of shrubs.* Three shrubs per 25 linear feet of street frontage. A minimum of 50% of shrubs required shall be evergreen.

(4) *Wall.*

(a) *Minimum height.* Three foot high wall made of brick, stone, or finished concrete.

(b) *Minimum buffer area.* Four foot buffer area along street right-of-way.

(c) *Minimum number of trees.* One shade tree per 25 linear feet along street frontage.

(5) *Twenty-five foot buffer strip:* A landscaped buffer area with existing woodlands maintained in 25-foot strips along the street frontage.

(D) *Groundcover.*

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

(2) *Mulch.* Wood mulch may make up 20% of the groundcover for the landscaped street frontage buffer. Weed barrier shall be required. Gravel, concrete, brick pavers or other pavement is not appropriate groundcover for the street frontage buffer.

(E) *Massing.* Massing is multiple rows of alternating plant materials with a combination of trees and shrubs. Massing is strongly encouraged. The maximum distance between massing is 25 feet. Massing should be integrated into a bed or in a curb to ease maintenance.

(F) *Street Tree Corridor Plan.* For developments along a street designated on the Street Tree Corridor Plan, developers are encouraged to use the trees recommended in the plan. If a developer follows the Street Tree Corridor Plan, the Planning Commission may approve up to a 10% reduction in the number of shrubs required.

§ 152.1300.08 INTERIOR PARKING LOT LANDSCAPING.

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

(A) *Purpose.* The interior parking lot landscaping requirement serves several purposes:

- (1) It provides necessary green space to give relief to expansive parking areas with nothing but asphalt.
- (2) Trees provide shade and serve as windbreaks.
- (3) Planting islands assist with vehicular circulation.

(B) *Applicability.* Interior parking lot landscaping requirements apply to all parking lots that are required in the Zoning Code to have 14 or more parking spaces.

(C) *Requirement.* The site plan shall show interior parking lot landscaping. A sliding scale to determine the amount of landscaping area per lot has been included in order for the applicant to include these landscaping requirements as an integral part of the site development.

(1) *Standard.* Percent of the total area of parking lot dedicated to interior planting shall be as follows:

Interior Landscaping Requirements	
Total Area of Parking Lot	Minimum % Dedicated to Interior Landscaping
3,000 - 49,999 sq. ft.	8%
50,000 - 149,000 sq. ft.	10%

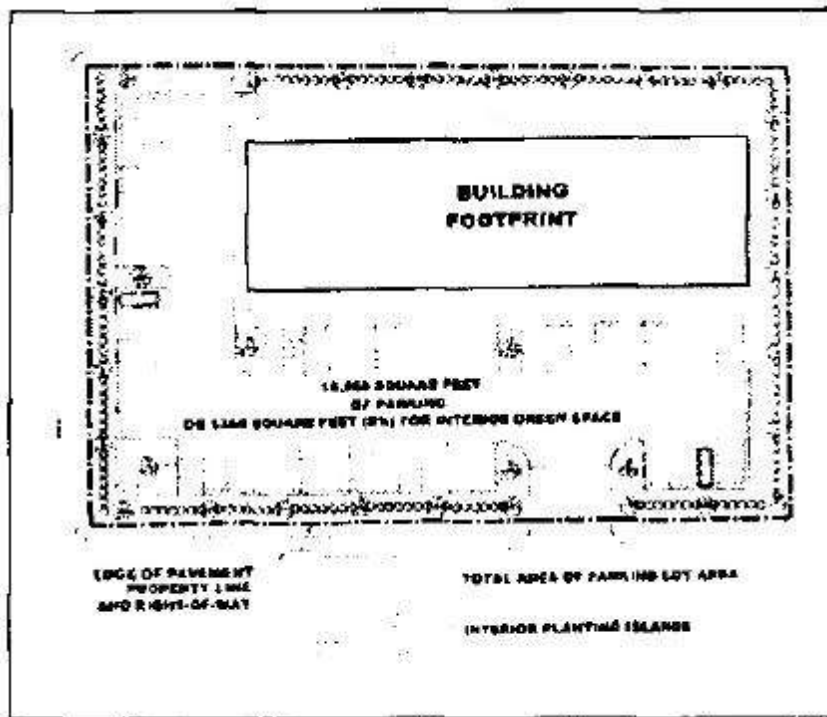
150,000 sq. ft.	15%
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(2) *Calculating Lot Area.* Diagram A, Calculating Lot Area, illustrates what areas of the lot are considered when determining the total area of the parking lot. The total amount of landscape area for the interior lot is determined by figuring 8%, 10%, or 15% of the total parking lot area as explained below.

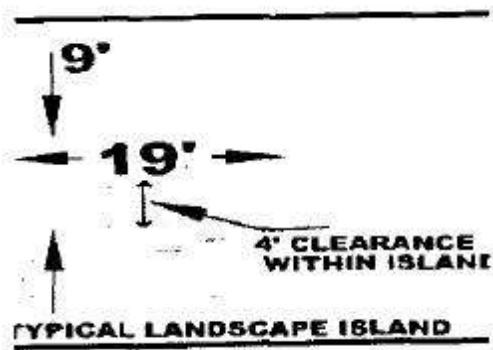
(a) *Included in calculation.* The square footage of all areas within the parking lot's perimeter are counted, including the planting islands required, curbed areas, corner lots, parking spaces and interior driveways and aisles.

(b) *Excluded from calculation.* Driveways and aisles with no parking spaces located on either side, buildings, street frontage buffer, and perimeter strips are not counted. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.

(3) *Planting islands.* Planting islands are required as a part of the landscape area percentage in the interior parking lot area.



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



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

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

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

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

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

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

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

(b) **Non-living material.** Non-living materials, such as wood mulch or decorative rock ($\frac{3}{4}$ " or smaller gravel in a natural color tone), may make up 40% of the groundcover for the interior parking lot landscaping. Weed barrier shall be required.

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

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

(1) **Compliance with standard.** Comply with the interior parking lot landscaping requirements described in this section and the required street frontage requirements in § 152.1300.07; or,

(2) **Increase street frontage buffer.** In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to 15 feet wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.

§ 152.1300.09 LANDSCAPED PERIMETER.

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

(A) *Purpose.* Perimeter landscaping:

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

(B) *Requirement.* The site plan for any development, other than that exempt in § 152.1300.04 Exemptions, shall show perimeter landscaping, in addition to the landscaped street frontage buffer required in § 152.1300.06(A).

(1) *Width.* A five foot landscaped strip is required along the side and rear lot lines of a development.

(2) *Minimum number of trees.* One tree per 50 linear feet.

(3) *Groundcover.* All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.

(a) *Living material.* Living materials, such as grass, shall make up a minimum of 80% of the groundcover for the landscaped perimeter. One hundred percent of living materials is strongly encouraged.

(b) *Mulch.* Wood mulch may make up 20% of the groundcover for the landscaped perimeter. Gravel, concrete, brick pavers or other pavement is not appropriate nonliving groundcover. Weed barrier shall be required.

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

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

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

§ 152.1300.10 RESIDENTIAL LANDSCAPING.

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

§ 152.1300.11 LANDSCAPE INSTALLATION REQUIREMENTS.

(A) Location.

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

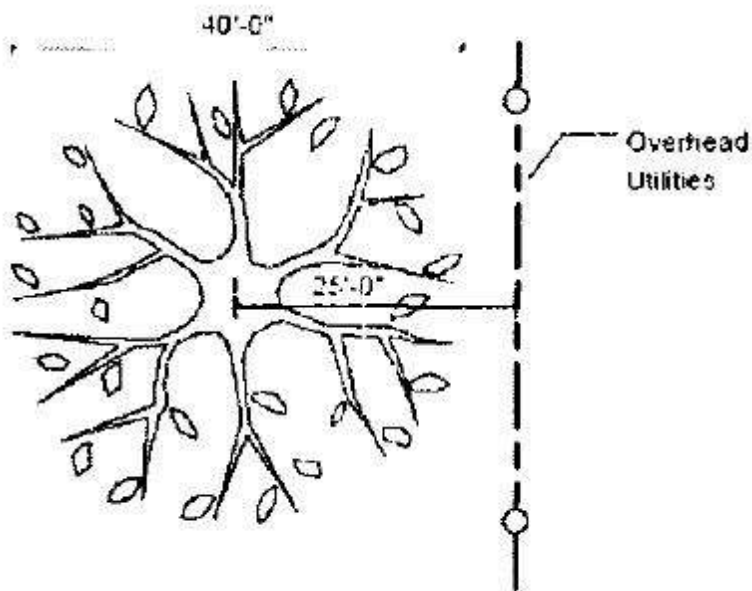
(2) *Overhead utilities*. Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead power lines. In such locations, small ornamental trees are encouraged. Every effort shall be made to avoid placing trees directly under overhead utilities.

(a) *Shade/large trees*. Tree species with a mature height greater than 30 feet shall be planted a minimum distance from overhead utilities that is half the mature width of the subject tree species plus five feet.

Example: Pin Oak has a mature width of 40 feet:

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

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



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

(b) Suitable Trees Under Overhead Utilities			
Common Name	Mature Height (in feet)	Mature Width (in feet)	Growth Rate
American Hornbeam, Ironwood	25	25	Slow

Amur Maple/Tartarian Maple	15	18	Medium/Fast
Chinese Fringetree	25	25	Medium/Fast
Chinese Pistache	30	30	Medium
Crabapple	12-25	15-25	Medium
Common Winterberry/Possumhaw	12	12	Medium
Crapemyrtle	15-30	8-18	Fast
Common Name	Mature Height (in feet)	Mature Width (in feet)	Growth Rate
Dwarf Southern Catalpa	18	22	Medium
Eastern Flowering Dogwood	20	20	Slow
Goldenraintree	30	35	Medium/Fast
Kousa Dogwood	15-24	15-20	Slow/Medium
Kwanzan Cherry Tree	15-25	25	Medium
Persian Parrotia	30	25	Medium
Prairiefire Crabapple Tree	20	20	Medium
Redbud Tree	25-30	15-25	Medium
Saucer Magnolia	20-30	25	Medium
Shantung Maple	15-30	25	Slow/Medium
Southern Magnolia	20	10	Medium
Star Magnolia	15	15	Slow/Medium
Sweetbay Magnolia	25	15	Medium
Thornless Cockspur Hawthorn	20	28	Medium

Thornless Osage – orange	25	30	Fast
Trident Maple	30	25	Medium
White Fringetree / Grancy Graybeard	20	20	Medium
Yoshino Cherry	25	30	Medium/Fast

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

Example: 100 ft of linear street frontage

Requirement:

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

Substitution:

(2 utility trees for each shade tree):

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

(3) *Underground utilities.* Landscaping shall be installed at locations that avoid placement directly above water lines. Where possible, tree plantings shall be located a minimum of five feet from all underground utilities.

(4) *Fire hydrants.* Landscaping shall not be placed within three feet of a fire hydrant.

(5) *Right of way.* Trees may be planted in the public right-of-way when the street is classified as an arterial on the Master Street Plan and the necessary right-of- way is dedicated.

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

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

Shrubs	18" in height
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All plant material shall meet the requirements established by the American Association of Nurserymen publication "American Standard for Nursery Stock" (ANSI Z60.1 latest edition.)

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

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

§ 152.1300.12 RECOMMENDED TREES AND SHRUBS.

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

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

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

Recommended Shrubs		
EVERGREEN		
Creeping Juniper	Japanese Holly	
Shore Juniper	Pfitzer Juniper	
Foster Holly	Helleri Holly	
Youpon Holly	Inkberry Holly	
Abelia	Euonymus	
Nandina Barberry	Viburnum Wintergreen Azalea	
Mugo Pine		
DECIDUOUS		
Japanese Barberry	Flowering Quince	
Viburnum	Spirea	
Cotoneaster	Forsythia	
Azalea		
Recommended Trees		
Common Name	Mature Height (in feet)	Growth Rate
SHADE		
Bald Cypress	50-70	Medium
Chinese Elm	30-40	Medium
Ginkgo	80-100	Slow
Green Ash	50-60	Fast
Hackberry	40-60	Medium/Fast

Japanese Zelcova	40-50	Medium/Fast
Pin Oak	60-75	Fast
Red Maple	40-60	Medium/Fast
Red Oak	60-75	Fast
Sugar Maple	60-75	Slow/Medium
Thornless Honey Locust	60-150	Medium
Tulip Poplar	60-150	Medium
White Ash	50-80	Medium
EVERGREEN		
Austrian Pine	40-60	Medium/Fast
American Holly	40-50	Slow/Medium
Loblolly Pine	60-90	Fast
Japanese Black Pine	50-70	Slow
Norway Spruce	40-60	Medium
ORNAMENTAL		
Armur Maple	15-20	Medium
Chinese Pistache	25-35	Medium
Dogwood	20-25	Medium
Eastern Redbud	20-30	Medium
Common Name	Mature Height (in feet)	Growth Rate
Golden Raintree	30-40	Medium/Fast
Japanese Red Maple	15-20	Slow/Medium

Purpleleaf Plum	15-30	Fast
River Birch	40-70	Medium/Fast
Saucer Magnolia	20-30	Medium
Serviceberry	15-20	Medium
Trident Maple	25-35	Medium
Washington Hawthorn	25-30	Medium
Yoshino Cherry	20-40	Fast

§ 152.1300.13 TREE PRESERVATION CREDITS.

(A) *Healthy trees.* No tree preservation credits will be allowed for any dead tree, any tree in poor health or any tree subjected to grade alterations.

(B) *Protection during construction.* Trees for which credit is given shall be protected during construction from:

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

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

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

Parking Space Reduction Credits	
Total Diameter of all Preserved Trees	Number of Parking Spaces Credited
4 - 7.9 inches	1 parking space

8-22.9 inches	2 parking spaces
23 - 29.9 inches	3 parking spaces
30+ inches	4 parking spaces

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

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

§ 152.1300.14 ENFORCEMENT AND MAINTENANCE.

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

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

§ 152.1300.15 ALTERNATIVE METHODS OF COMPLIANCE.

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

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

(B) *Site conditions.* Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.

(C) *Change of use.* Due to a change of use of an existing site, the required buffer yard is larger than can be provided.

(D) *Safety.* Safety considerations require a change.

§ 152.1300.16 SCREENING.

(A) *Standards.* Every development shall provide sufficient screening that meets these standards:

(1) *Adjacent properties.* Neighboring properties are shielded from any adverse external effects of that development.

(2) *Developing property.* The development is shielded from the negative impacts of adjacent uses such as major street or railroads.

(3) *Dumpsters.* Trash dumpsters are enclosed with opaque screening materials on all sides.

(B) *Requirements.* Screening required shall be determined by the Table of Screening Requirements.

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

(C) *Description of screens.* The following three types of screens are hereby established and are used as the basis for the Table of Screening Requirements in § 152.1300.14 (B) Requirements.

(1) *Type A: Opaque Screen.* An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation.

(a) *Minimum height.* The screen shall be opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet.

(b) *Materials.* The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

(c) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen shall be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants.

(2) *Type B: Semi-Opaque Screen.* The semi opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.

(a) *Minimum height.* The screen shall be opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet.

(b) *Materials.* The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

(c) *Vegetative screens.* Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants.

(3) *Type C: Broken Screen.* The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces.

(a) *Height.* The broken screen shall be composed of intermittent visual obstruction from the ground to a height of at least 20 feet.

(b) *Materials.* The broken screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

(c) *Vegetative screens.* The screen may contain deciduous plants.

§ 152.1300.17 FENCE AND WALL REQUIREMENTS.

(A) *Applicability.* The requirements of this section shall apply to the following conditions in all zoning districts, except as exempted in (B) exemptions, below:

(1) *New construction.* Construction of a new fence or wall;

(2) *Extension.* Extension of an existing fence or wall;

(3) *Replacement.*

(a) Replacement of an existing fence or wall that is a different size, at a different location or of a different material (e.g. a chain link fence being replaced by a wood privacy fence); or

(b) Replacement of more than 50% of the linear length of an existing fence.

(B) *Exemptions.* This section shall not apply to:

(1) *Zoning districts.* The A-1, Agricultural and R-E, Residential Estate zoning districts, except requirements of placement of razor wire, barbed wire, or electric fences near sidewalks and rights-of-way identified in division (E)(4) below Fence types.

(2) *Replacement.* Replacement of less than 50% of the linear length of an existing fence, except that the portion being replaced shall not:

(a) Impede visibility at the sight triangle,

(b) Impede a natural drainage way;

(c) Be located in certain utility easements that require gated access; or,

(d) Encroach neighboring property lines.

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

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

(a) Location of all property lines;

(b) Location of all existing structures;

(c) Location of existing or proposed pools or spas;

(d) Location of existing fencing on or adjacent to the property that is to remain in place;

(e) Portions of existing fence that will be replaced;

(f) Location of new fencing; and,

(g) A note indicating the height of the proposed fence and the type of fence construction (i.e. wood privacy, wrought iron, brick, etc.)

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

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

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

(D) *Fence location.*

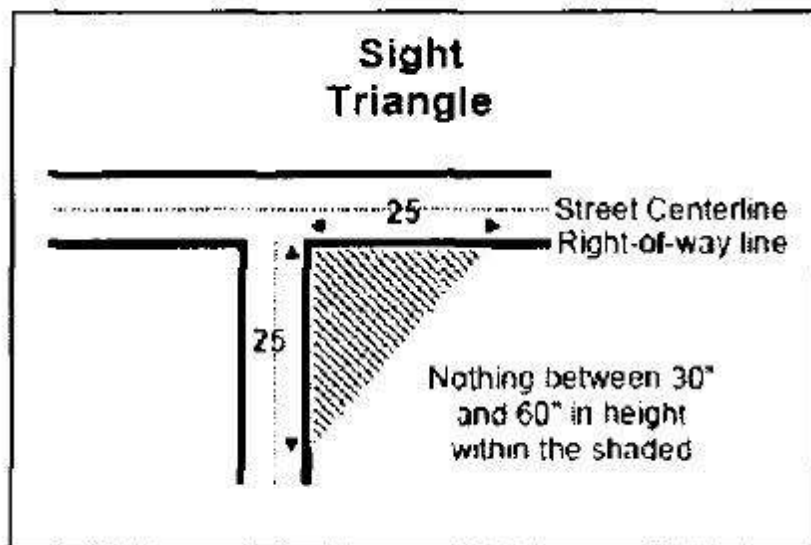
(1) *Private property.* All fences and walls shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences and walls shall not encroach neighboring property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

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

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

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

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



(6) *Easements.*

(a) *Utility easements.* Walls used as fences and footings for retaining walls are prohibited in a utility easement. Construction of all other fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement(s) shall have a gate installed to permit access to the easement.

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

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

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

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

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

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

(4) *Fence types.*

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

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

(c) *Electric fences.* Electric fences shall be prohibited. *Exception.* Electric fences shall be permitted in A-1, Agricultural and RE Residential Estate Districts and shall not be placed within five feet of a public sidewalk or within four feet of a street right-of-way where a public sidewalk does not exist. Underground electric pet fences shall be permitted.

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

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

(2) *Gates.* Gates in the enclosing fence shall swing away from the pool/spa area and be designed to be self-closing and self-latching. If the latch or latch-release hardware is on the outside of the fence, it shall be at least 54 inches above the ground. If the latch hardware is on the inside of the fence, it must be at least three inches below the top of the fence and there shall not be any openings more than ½ inch in

width within 18 inches of the latch. Gates more than five feet in width and designed for equipment access to the fence area are not required to be self-closing or self-latching provided they are locked at all times except when needed for equipment access.

(3) *Design.* The fence shall be designed so that there are no openings large enough to allow the passage of a four-inch diameter sphere and so that no "ladder effect" is created on the outside. If a chain link fence material is used, the maximum size of the openings (i.e., the distance between parallel wires) shall not exceed 1½ inches.

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

§ 152.1300.18 LANDSCAPING FOR WIRELESS COMMUNICATION FACILITIES (WFF).

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

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

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

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

(B) 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 division hereof may be waived.

ARTICLE 152.1400 FLOOD DAMAGE PREVENTION

§ 152.1400.01 STATUTORY AUTHORITY.

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

§ 152.1400.02 FINDINGS OF FACT.

(A) The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Tontitown in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Washington County, Arkansas" which is the most recent approved revision of the Flood Insurance Rate Map (FIRM).

(B) These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(C) These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

§ 152.1400.03 STATEMENT OF PURPOSE.

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

(A) Protect human life and health;

(B) Protect natural floodplains against unwise development;

(C) Eliminate adverse impacts of necessary floodplain development;

(D) Minimize expenditure of public monies on flood control projects;

(E) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(F) Minimize prolonged business interruptions due to flooding events;

(G) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;

(H) Minimize future flood blight areas to help maintain a stable tax base; and

(I) Provide for notice to potential buyers when property is in a Special Flood Hazard Area.

§ 152.1400.04 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Tontitown.

§ 152.1400.05 METHODS OF REDUCING FLOOD LOSSES.

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

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

(B) This chapter requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;

(C) This chapter controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;

(D) This chapter controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;

(E) This chapter regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

§ 152.1400.06 FLOOD DAMAGE PREVENTION CODE ADOPTED BY REFERENCE.

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

§ 152.1400.07 ABROGATION AND GREATER RESTRICTIONS.

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

§ 152.1400.08 INTERPRETATION.

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

(A) Be considered as minimum requirements;

(B) Be liberally construed in favor of the governing body; and

(C) Be deemed to neither limit nor repeal any other powers granted under state statutes.

§ 152.1400.09 WARNING AND DISCLAIMER OF LIABILITY.

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

§ 152.1400.10 COMPLIANCE.

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

§ 152.1400.11 PENALTY FOR NON-COMPLIANCE.

Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this chapter discourages non-compliance and is a recognized mechanism for flood hazard reduction. The Floodplain Administrator must enforce the provisions of this chapter and is authorized to:

(A) Issue a stop work order on non-compliant floodplain development projects;

(B) Issue citations for non-compliance;

(C) Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and

(D) Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this chapter.

(1) It is a misdemeanor to violate or fail to comply with any provision of this chapter.

(2) Any person found, in a court of competent jurisdiction, guilty of violating this chapter is subject to fines of not more than \$500 per day for each violation; in addition, the defendant is subject to payment of all associated court costs and costs involved in the case.

§ 152.1400.12 SEVERABILITY.

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

§ 152.1400.13 FEES.

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

§ 152.1400.14 PERMITS.

(A) *Applicability.* Any structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities must be approved via the current floodplain development permit application prior to any work within the special flood hazard area.

(B) *Exemptions.* No exemptions may be granted without a written request to the city Floodplain Administrator and approval by the appropriate board.

(C) *Application.*

(1) *Application form.* Completed and signed application form.

(2) *Fee.* Payment of fee as indicated on the application.

(D) *Review and approval.* Any floodplain development permit may not be completely reviewed until all associative documents and detailed study information has been made available to the Floodplain Administrator. Upon completion of the review a determination will be made to approve or deny the permit.

ARTICLE 152.1500 ADDRESSING

§ 152.1500.01 PURPOSE.

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

§ 152.1500.02 STREET ADDRESS MAP.

(A) *Official map.* The official Street Address Map is maintained on the city GIS system. The map shall identify all named street names and addresses.

(B) *Updating.* The official Street Address Map shall be automatically updated by the GIS Department upon final plat approval of any plat, large scale development, or Planned Unit Development.

(C) The city has determined that a discrepancy exists regarding one of its streets. The city's 1966 plot of city blocks illustrates a street known as "First Street" which runs parallel and east of North Barrington Road and intersects East Washington Avenue. This street will now be known as "Roso Street," and this revision was approved by the Planning Commission, and recommended for City Council adoption, be and is hereby approved.

§ 152.1500.03 CENTERLINES.

The address grid centroid is the intersection of Henri De Tonti Street and Barrington Road. The address numbers increase proceeding north, south, east and west. The north and south address centerline is a line extending east and west from the grid centroid to the city limits. The east and west address centerline is a line extending north and south from the grid centroid to the city limits and the addressing boundary.

§ 152.1500.04 STREET NAMES.

(A) *Definition of street.* For the purpose of this article, the word **STREET** shall mean all roadways, public and private, open for general public travel. Access drives to apartment and commercial complexes shall not be considered as private streets.

(B) *Street names on preliminary plat.* Street names shall be shown on the preliminary plat. The street names shown on the final plat shall be consistent with those shown on the preliminary plat.

(C) *Suffix.*

(1) *East and west.* Streets running east and west shall be identified with the suffix "Avenue" or "Boulevard" when applicable.

(2) *North and south.* Streets running north and south shall be identified with the suffix "Road" or "Street" respectively.

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

	Street
--	--------

(D) *State and Federal Highways.* Streets which are also state and federal highways will be identified by their local street name followed by their state or federal designation in parenthesis on the official Street Address Map. For example, Henri De Tonti Boulevard (US 412).

(E) *Cul-de-sacs.* Cul-de-sac streets which have only one entrance/exit shall not be called “Avenue” or “Road” but shall have a suffix name such as “Cove, Lane, Place or Terrace” to indicate their dead end nature.

(F) *Loop streets.* Loop streets are circular or rectangular plan streets which begin at one point and end at another point along a common street and do not connect to any other streets. The street name suffixes on these streets must not be “Road” or “Avenue” but shall be “Loop, Circle, Court” or other name indicating a closed street layout.

(G) *Duplication.* Street names shall not be duplicated and names with a similar pronunciation such as Main/Maine shall be avoided.

(H) *Name of person.* No street shall be named after a person's first or last name, unless specifically directed to do so by proclamation from the City Council in order to honor an individual.

§ 152.1500.05 ADDRESS NUMBERS.

(A) *Final plats.* All final plats shall be preaddressed. Large scale developments with more than one suite shall be addressed by the lot’s common address along with the individual suite number. (i.e. 620 Henri De Tonti Blvd., Suite A, Suite B etc.)

(B) *Odd and even numbers.* Address numbers shall be even on the north and east sides of the street and odd on the south and west sides of the street. Address numbers for unplatted residential and all other nonresidential buildings shall be determined by calculation. The distance from the center of the driveway to the last corner or grid shall be measured to get a location number. The location number is then divided by 5.28 to get the address. If the block number is 1200 and the location number divided by 5.28 is 43, the address is 1243 or 1244 depending upon which side of the street the building is located. Address numbers shall be beginning by the number grid in which the property is located.

(C) *New residential subdivisions.* In new residential subdivisions, each standard-sized lot shall be given a pre-assigned street number by the Planning Department upon final plat approval. All pre- addresses shall be reflected on the final plat at the time it is recorded. Address numbers will be assigned to large lots relative to their capacity to be divided into two or more minimum sized lots for the minimum width allowed by the zoning ordinance. Address numbers shall be assigned to lots in the appropriate odd or even numerical sequence relative to their location, such as 201, 203, 205, etc.

(D) *Diagonal streets.* Diagonal streets which run 45 degrees or less from a north/south line will be numbered by the north/south grid and those more than 45 degrees from the north/south line will be numbered by the east/west grid. Curving streets will be assigned numbers based upon the grid of their

greatest length. For instance, if the beginning is more south than east of the end, then the north/south grid will be used.

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

(E) *Loop street and cul-de-sacs.* On loop streets and cul-de-sac streets address numbering shall begin at the entrance nearest the grid centerline. Address numbers shall increase or decrease relative to their initial movement from the grid centerline and continue to the opposite end as if the street were in a straight line. Block number changes will be made every 528 feet with odd and even numbers remaining on the same side of the street as they began.

(F) *Apartments.*

(1) Apartment buildings on public streets shall be assigned individual addresses. Apartments clustered about a central parking area immediately facing a public street shall also be assigned separate street addresses.

(2) *On private streets.* Apartment buildings not located on public streets will be assigned a private street designator. These apartment buildings shall be assigned individual addresses. In these instances each building is lettered A, B, C and the like, but a central postal facility for all apartments must be located so it is readily accessible to a mail carrier for the public street serving the complex.

(3) *Building identification.* Each apartment must be identified on the exterior by block grid number. The numbers shall be in sequence increasing from the centerline. Apartment buildings shall have the block number as part of each apartment number 1702 Apt. #11. Apartments in lettered buildings shall have the building letter as part of each apartment number, such as B-210. When units are on multiple floors, ground floor numbers shall be in the 100 series (101, 102, 103 and the like), second floor in the 200 series (201, 202, 203 and the like). If a common hallway is used for several apartments, the external hallway entrance to each apartment shall contain a list of the apartments served. When addressing townhouses and other buildings containing units separately owned, each address shall be placed upon the principal external entryway to the unit.

(4) *Individual units.* The official address for each apartment on a public street shall be the building address followed by the apartment number, such as “329 E. Central Avenue, Apt # 11, or “329 E. Central Avenue # 11.” Addresses for units in apartment buildings not on a public street shall include the block number, private street designator and apartment number. The official address for each apartment building not on a public street will be “1702 S.E. Moberly Manor Dr. Apt # 11 or 702 S.E. Moberly Manor Dr. # 11”. Mobile home parks on private streets shall be addressed in the same manner as apartment buildings located on private streets.

(G) *Suites*. Suite numbers (odd or even) shall be determined by its parent building's number and will increase in an odd or even manner according to the layout location from the centroid. In the event of a suite split, the newly created suite shall be assigned the next lowest available number. Example: A building with the odd number 201 shall start with suite 1, 3, 5, 7, etc. Buildings with an even number (202) shall have even suite numbers (2, 4, 6, etc.). If there was a split in the odd building 201 between suites 3 and 5 the newly created suite would be numbered suite 4.

(H) *Corner lots*. Structures on corner lots shall not be given dual addresses. The structure on a corner lot shall be addressed off of the street where the front entrance is located. If the structure appears to have more than one front entrance then the structure shall be addressed off of the street with the shortest frontage.

(I) *Townhouse*. Each unit within a townhome development which is on an individual lot shall have a separate address number and not a unit number.

§ 152.1500.06 SIGNS, NUMBERS AND SYSTEM MAINTENANCE.

(A) Public and private street signs shall be installed at the expense of the original developer and thereafter maintained by the city.

(B) Private street signs shall be required. They shall conform to the public street sign standards, except shall have a blue background with white letters.

(C) Only street name signs which are authorized by the City Council shall be installed within the Planning Area Boundary of the City of Tontitown. All street name signs, public or private, found not to conform with this subchapter shall be removed by the city. Nonconforming, damaged or deteriorated public street signs shall be replaced as soon as possible by the city.

(D) Requests for private street signs on existing streets shall be submitted to the Building Official.

(E) Replacement of address numbers is required within 15 days after written notice to the owner or occupant. New and replacement numbers must be placed so that they will be clearly visible from the street of primary access to the building.

(F) Address numbers shall be a minimum of four inches high with dark green reflective block letters on a white background or reverse contrasts and shall be visible from the street. The numbers shall be placed as near as possible to the primary entrance of the building and preferably above the entrance doorway. If building is not visible from the street, address numbers should be placed at the street entry to the building. Appeals concerning numbers shall be made to the City Council.

CHAPTER 153: ZONING REGULATIONS

Section

Article 153.101 Purpose

153.101.1 Title

153.101.2 Authority

153.101.3 Purpose

153.101.4 Jurisdiction

153.101.5 Nature and application

Article 153.201 Definitions

153.201.1 Interpretations

153.201.2 Definitions of terms and uses

Article 153.301 Administration

153.301.1 Enforcement

153.301.2 Fees

153.301.3 Planning Commission

153.301.4 Board of Zoning Adjustment

153.301.5 Building permits

153.301.6 Conditional uses

153.301.7 Violation and Penalties

153.301.8 Zoning ordinance amendments

153.301.9 Appeals to City Council

153.301.10 Variances

153.301.11 Severability

153.301.12 Repeal of conflicting ordinance

153.301.13 Emergency clause

153.301.14 Conversion of previous zoning districts

Article 153.401 Zoning District Regulations

153.401.1 Zoning district boundary map

153.401.2 Classification of districts

153.401.3 General provisions

153.401.4 Table of permitted uses

153.401.5 Application of district regulations

153.401.6 A-1, Agricultural district

153.401.7 Residential districts

153.401.8 Commercial districts

153.401.9 Industrial districts

153.401.10 Planned unit development (PUD)

153.401.11 Planned residential development (PRD)

Article 153.501 Off-Street Parking, Loading and Landscaping

153.501.1 Applicability

153.501.2 Parking dimensions

153.501.3 Location of off-street parking

153.501.4 Ownership

153.501.5 Accessibility

153.501.6 Number of off-street parking spaces required

153.501.7 Surfacing of parking lots

153.501.8 Off-street parking lots in residential districts

153.501.9 Joint parking facilities

153.501.10 Off-street loading

153.501.11 Appeals

153.501.12 Parking and storage of certain vehicles

Article 153.601 Use Regulations

153.601.1 Accessory nonresidential buildings

153.601.2 Accessory dwellings

153.601.3 Animals

153.601.4 Apiculture (beekeeping)

153.601.5 Bed and Breakfast

153.601.6 Car Wash

153.601.7 Child Care

153.601.8 Commercial recreation facility, outdoor

153.601.9 Commercial vehicles in residential zones

153.601.10 Community Center

153.601.11 Hobby chickens

153.601.12 Home occupations

153.601.13 Medical services, hospitals

153.601.14 Mini-warehouse storage

153.601.15 Non-residential uses in or abutting R districts

153.601.16 Outdoor vendors

153.601.17 Recreational vehicle park

153.601.18 Residential in commercial district; existing

153.601.19 Religious facilities

153.601.20 Salvage yard

153.601.21 Sewage treatment plant

153.601.22 Sexually oriented business

153.601.23 Sidewalk cafes in public right-of-way

153.601.24 Solar energy systems

153.601.25 Temporary uses and structures

153.601.26 Wind energy systems (WES), small

153.601.27 Wireless communication facilities (WCF)

Article 153.701 Nonconforming Buildings, Structures and Uses of Land

153.701.1 Continuation of nonconforming buildings, structures and uses

153.701.2 Nonconforming buildings and structures

153.701.3 Nonconforming lots of record

153.701.4 Nonconforming uses

153.701.5 District changes

Article 153.801 Signs and Billboards

153.801.1 Purpose

153.801.2 Common Signage Plan

153.801.3 Application for a sign permit

153.801.4 Review and approval

153.801.5 Interpretation of sign regulations

153.801.6 General regulations

153.801.7 Signs permitted without a permit

153.801.8 Signs permitted in public right-of-way without a permit

153.801.9 Signs permitted with a sign permit

153.801.10 Signs permitted with a temporary sign permit

153.801.11 Signs not permitted

153.801.12 Enforcement

153.801.13 Severability

Appendix 153.A Table of Permitted Uses

Appendix 153.B Flag Standards

ARTICLE 153.101 PURPOSE

§ 153.101.1 TITLE.

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

§ 153.101.2 AUTHORITY.

(A) These regulations are adopted under the authority conferred on the city of the state by A.C. § 14-56-402 through § 14-56-425.

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

§ 153.101.3 PURPOSE.

The general purpose of this chapter is to carry out and protect various elements of the general plan of the city. In doing so, the chapter promotes in accordance with present and future needs, the safety, health, and general welfare of the citizens. Specifically, this chapter 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.

§ 153.101.4 JURISDICTION.

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

§ 153.101.5 NATURE AND APPLICATION.

(A) 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 chapter, they shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.

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

ARTICLE 153.201 DEFINITIONS

§ 153.201.1 INTERPRETATIONS.

When dealing with this chapter, 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 chapter 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 chapter 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.

§ 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 chapter.

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 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, EXOTIC. Animals that are not usually found running at large within the natural areas of the state; 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, 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, 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.

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 or more animals, more than four 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. 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 chapter.

ARENA/AUDITORIUM. An enclosed facility used for large public gatherings for viewing sports events, musical programs, public speeches or ceremonies.

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.

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.

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 or her 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:

- (1) The sale of auto parts/accessories separate from a vehicle dealership (see “Auto Parts Sales”);
- (2) Mobile home, recreational vehicle, or watercraft sales (see “Mobile home, RV and Boat Sales”);
- (3) Tire recapping establishments (see “Vehicle Services”);
- (4) Businesses dealing exclusively in used parts, (see “Recycling - Scrap and Dismantling Yards”); or
- (5) “Service Stations,” which are separately defined.

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. 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 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 FACADE. 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 this chapter. 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.

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. 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 this chapter 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 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 (FOUR). A single family dwelling that regularly provides care, protection, and supervision of no more than four 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 24 hours per day, while parents or guardians are away.

CHILD CARE, RESIDENTIAL (FIVE THROUGH TEN). A single family dwelling that regularly provides care, protection, and supervision of between five and ten 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 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.

(1) Establishments providing indoor recreational activities for a fee or admission charge, including:

(a) Bowling alley;

(b) Coin-operated amusement arcade;

(c) Night club;

(d) Electronic game arcade (video games, pinball);

- (e) Ice skating and roller skating;
- (f) Pool and billiard room as primary use;
- (g) Movie theater;
- (h) Live theater.

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

COMMERCIAL RECREATION or ENTERTAINMENT FACILITY, OUTDOOR.

(1) A facility for various outdoor recreational activities for a fee or admission charge. Examples include:

- (a) Amusement and theme park;
- (b) Go-cart track;
- (c) Golf driving range;
- (d) Miniature golf course;
- (e) Water slide;
- (f) Drive-in movie theater;
- (g) Live outdoor theater.

(2) May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, and the like. 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 chapter 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 or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, and the like).

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, and the like.

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 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:

- (1) Individual and group instruction and training in the arts; production rehearsal;
- (2) Photography, and the processing of photographs produced only by users of the studio facilities;
- (3) Martial arts training studios;
- (4) Gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment.
- (5) 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.

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 family only.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two 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 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 of a group of no less than three, nor more than 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.

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:

- (1) College, junior college, university, or professional school.
- (2) Elementary;
- (3) Secondary;
- (4) Specialized education and training;
- (5) 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.

FAA. The Federal Aviation Administration.

FAMILY. In addition to customary domestic servants, either:

(1) An individual or two or more persons related by blood, marriage or adoption, maintaining a common household in a dwelling unit; or

(2) A group of not more than four unrelated mentally or physically handicapped persons which may include two 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

(3) A group not to exceed four 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. 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.

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 automobiles, or for a number of automobiles which does not exceed one and one half 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 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 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). 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.

GROUND COVERAGE RATIO. 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 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.

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, and the like. 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.

INDUSTRIAL, INTENSIVE. A facility and surrounding yard designed primarily for the preparation, production and distribution of objectionable materials such as chemicals, explosives, and the like. 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:

- (1) Aerosol containers, filling of;
- (2) Animal and marine fat and oils, manufacturing or processing;
- (3) Animal bones, offal or waste; assembly, incinerator, processing or utilization;
- (4) Mineral preparation; non-metallic;
- (5) Ore reduction;
- (6) Paint, enamel, lacquer, turpentine, varnish, manufacturing;
- (7) Paper manufacturing or processing;
- (8) Arsenals.
- (9) Production of crude petroleum, natural gas natural gas liquids;
- (10) Chemicals compounding or packaging;
- (11) Recycling and reclamation;
- (12) Coal preparation;
- (13) Rendering of animals;

- (14) Creosoting or similar processing;
- (15) Rubber products; natural or synthetic manufacturing;
- (16) Explosives: manufacture, storage warehousing or wholesaling;
- (17) Tanning of hides and skins;
- (18) Fireworks: manufacture, storage;
- (19) Tar or tar products manufacturing or processing;
- (20) Foundry;
- (21) Warehousing or wholesaling flammable gases or liquids; storage;
- (22) Batching or mixing plant, asphaltic or Portland cement, concrete, mortar or plaster;
- (23) Railroad equipment storage or maintenance;
- (24) Railroad freight terminal;
- (25) Brick, tile, clay or ceramic manufacture;
- (26) Scrap or waste materials handling;
- (27) Compounding of cosmetics, toiletries, drugs, and pharmaceutical products;
- (28) Scrap steel cutting on contract basis;
- (29) Dry cleaning and dyeing plant;
- (30) Sign painting;
- (31) Electronic equipment assembly and manufacture;
- (32) Steel products; fabrication and assembly;
- (33) Freight depot, railroad or truck freight forwarding service; and
- (34) 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, and the like. Uses include but are not limited to:

- (1) Air conditioning and heating equipment manufacture;

- (2) Orthopedic or medical supplies manufacturing;
- (3) Jewelry manufacturing;
- (4) Book bindery;
- (5) Bus or truck storage or garage;
- (6) Leather goods fabrication;
- (7) Bottling works, all beverages;
- (8) Mattresses; rebuilding or renovating;
- (9) Brooms and brushes manufacturing;
- (10) Outdoor advertising plant;
- (11) Electrical equipment assembly;
- (12) Processing and manufacturing that by reason of operation is not a nuisance in respect to odor, noise, dust, vibration, and the like;
- (13) Furniture manufacturing;
- (14) Vending machine sales, rental, repair and manufacturing;
- (15) Ice plant, dry or natural;
- (16) Instrument and meter manufacturing;
- (17) Wood distribution;
- (18) Venetian blind, window shade and awning manufacture;
- (19) Industrial cleaning plant;
- (20) Wood or lumber processing; and
- (21) 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.

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 or four 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 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 21 days.

LODGING, HOTEL or MOTEL. A structure containing six 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, INTERIOR. A lot other than a corner lot.

LOT FRONTAGE. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

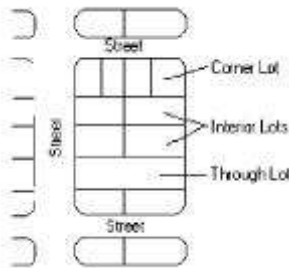
LOT LINES. The lines bounding a lot as defined herein:

(1) **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.

(2) **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 feet long farthest from and parallel to the front lot line and wholly within the lot.

(3) **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 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.

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 PARK. A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one or more manufactured homes and which conforms to the provisions of this chapter.

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.

(1) 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:

- (a) Medical offices with four or more licensed practitioners and/or medical specialties;
- (b) Out-patient care facilities;
- (c) Urgent care facilities; and
- (d) Other allied health services.

(2) 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 licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists and the like, 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. The percentage of lot area which must be maintained in grass or other living vegetation.

MINING. A tract of land where various minerals, ore, and the like 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:

- (1) Exploration for minerals;
- (2) Mining of coal, metal ores and nonmetallic minerals other than fuels;
- (3) Extraction of sand, gravel, clay, quarrying of rock; and
- (4) Removal of topsoil for sale purposes.

MINI-WAREHOUSE STORAGE. One 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 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.

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 chapter, as amended, which does not comply with all of the regulations of this chapter 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 chapter, as amended, which does not comply with all the regulations of this chapter 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.

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, 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-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.

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

PARK, COMMUNITY. A park that is between ten and 400 acres in size serving the residents of the city. 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.

PARK, MINI. A park that is one 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 and five acres in size with a service area of one-half to one mile. Facilities may include playing fields, playgrounds, shelters and restrooms to accommodate active recreation. Parking is typically provided.

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 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.

REAL ESTATE SIGN. A sign advertising the premises for sale, rent or lease.

RECEIVE-ONLY ANTENNA. An antenna less than 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 feet by 40 feet.

RECREATIONAL VEHICLE PARKS. A lot of land upon which two 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 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.

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.

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:

- (1) Parish house, parsonage or rectory;
- (2) Convent or monastery or novitiate;
- (3) Religious retreat facility; and
- (4) 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:

- (1) Vehicle repair or maintenance, which is included under “automobile repair;”
- (2) The repair of small home appliances and electronic equipment, which is included under “repair service - household;”
- (3) Maintenance and repair activities that occur on the client's site, which are included under “maintenance service;” or
- (4) 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, and the like” 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:

- (1) Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments; or
- (2) Dormitories, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or
- (3) 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, 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 24-hour nonmedical care of more than 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 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.

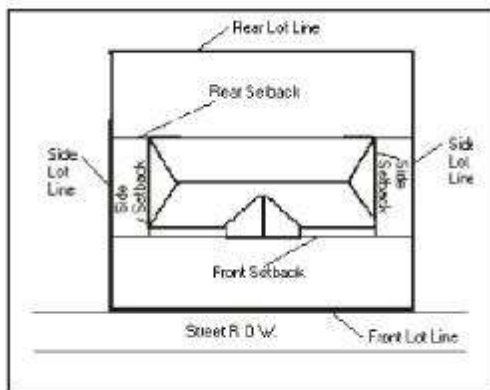
SALVAGE YARD.

(1) 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:

- (a) Scraps or discarded pieces of metal, paper, rags, tires, bottles, furniture and other materials.
- (b) Inoperable, wrecked, scrapped, ruined or discarded automobiles, automobile parts, machinery or appliances.

(2) 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 30 days. Any premises on which there remains outside more than 30 days an inoperable, partially dismantled, wrecked, or junked automobile, shall be deemed for the purpose of this chapter, 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 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 chapter.

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 or more supports. There are two 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 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 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,” and the like.

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 75% 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:

- (1) Signs expressing political views; and/or
- (2) 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 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 chapter 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:

- (1) To signs with attached wheels;
- (2) Converted to A- or T- frame signs;
- (3) Menu and sandwich board signs;
- (4) Gas, air or hot air filled displays;

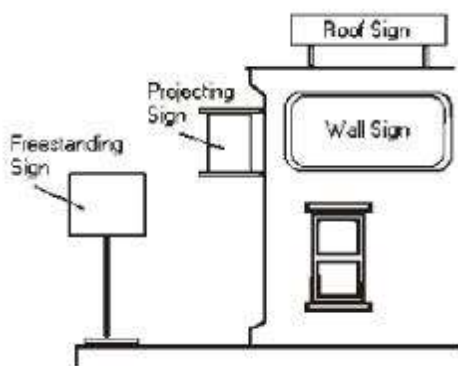
(5) Signs attached or painted on vehicles parked and visible from the right-of-way, unless said vehicle is used as a vehicle in the normal day-to-day operations of the business.

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.

SIGN, 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 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 chapter, notwithstanding the fact that certain portions of such a sign may project more than 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 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 identical signs are back to back, and are part of the same sign structure and are not more than 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.

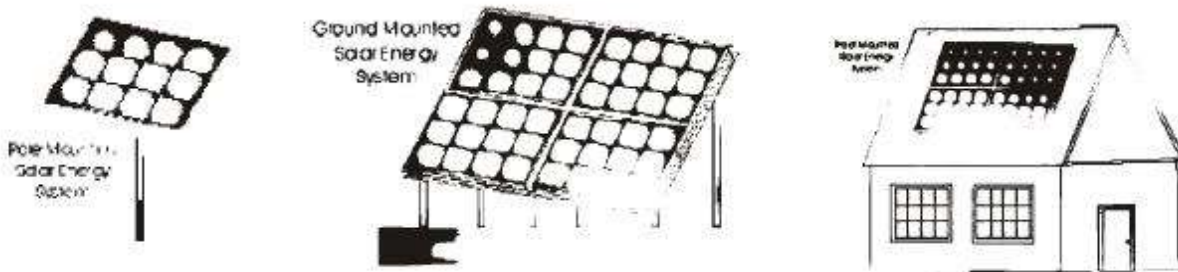
SINGLE FAMILY DWELLING. See **DWELLING.**

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 this chapter 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 for a period of time not to exceed seven days.

SPECIFIED SEXUAL ACTIVITIES.

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy; and/or
- (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 feet above the top floor level, and in which space not more than two-thirds 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.

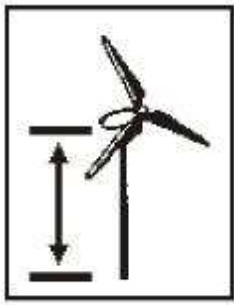
STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial changes in the roof or in the exterior walls.

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 or more antennas, including lattice towers, guy towers, or monopole towers. The term includes:

- (1) Radio and television transmission towers;
- (2) Microwave towers;
- (3) Common-carrier towers;
- (4) Cellular telephone towers; and
- (5) Alternative tower structures, and the like.
- (6) This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one or more antennas, despite the fact that such structure may currently, or in the future, actually support one or more antennas.

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:

- (1) Bus station;

- (2) Truck;
- (3) Bus;
- (4) Train terminals; and
- (5) Taxicab stand or dispatching station.

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.

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.

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:

- (1) Corporation and maintenance yards;
- (2) Electrical substations and switching stations;
- (3) Natural gas regulating and distribution facilities;
- (4) Public water system wells, treatment plants and storage;
- (5) Telephone switching facilities;
- (6) Wastewater treatment plants, settling ponds and disposal fields.

VARIANCE. A device which grants a variation from the literal provisions of the Zoning Ordinance in instances where strict enforcement of the chapter 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 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.

WALL. One 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, LARGE. A wind energy conversion system used primarily to generate power for off-site consumption, more than 100 kW, consisting of one or more wind turbines and associated accessory facilities.

WIND ENERGY SYSTEM, SMALL. A wind energy conversion system used primarily to generate power for on-site consumption, 100 kW or less, consisting of a wind turbine, tower, base and associated control or conversion electronics.

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.

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 chapter 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.

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

§ 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 chapter 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 chapter.

§ 153.301.2 FEES.

(A) *Establishment of fee schedule.* The City Council of the city shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, appeals and other matters pertaining to this chapter. 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.

§ 153.301.3 PLANNING COMMISSION.

See § 31.01 of the City Code.

§ 153.301.4 BOARD OF ZONING ADJUSTMENT.

(A) *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 or 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 or her term, a successor shall be appointed by the City Council to serve his or 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 or 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 chapter.

(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 members. The concurring vote of three 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 chapter.

(C) *Powers and duties.* The Board of Zoning shall have all the powers and duties prescribed by law and by this chapter, 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 chapter. 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 chapter.

(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.

§ 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 or her 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 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.

§ 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.*

(1) 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.

(2) 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 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 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 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 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 chapter and shall make recommendations to the Planning Commission.

(4) *Public Hearing.* The City Planning Commission shall hold one 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 division (E) below.

(b) *Conditions.* The Planning Commission may impose conditions and restrictions upon the premises benefitted 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 chapter. 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 chapter.

(4) The proposed use shall be in conformance with all applicable provisions stated in this chapter 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 chapter 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 regulations and the city landscaping regulations.

(8) Proposed use signage shall be in accordance with the provisions of this chapter.

(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 chapter.

(11) The Planning Commission shall in no case authorize less than minimum requirements of the chapter 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.

§ 153.301.7 VIOLATIONS AND PENALTIES.

A violation of this chapter shall be deemed a misdemeanor and shall be punishable as set forth in the § 10.99.

§ 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 chapter, 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 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 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 time 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 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 or her intention to apply for a zoning amendment no less than 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 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 § 153.301.9.

(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 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 chapter 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 division (E), below.

(2) *Emergency.* The City Council may act upon a request to amend this chapter 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 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 this chapter.

(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 this chapter 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.

§ 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.

§ 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 days after the decision has been rendered by the administrative official. Every appeal or application shall refer to the specific provision of the chapter 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 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 days preceding the date of such hearing in a newspaper of general circulation in the city. The public notice shall give the particular location of the property on which the appeal is requested, 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 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 chapter 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 chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(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 chapter, 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 chapter.

(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 chapter 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 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 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.

(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.

§ 153.301.11 SEVERABILITY.

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

§ 153.301.12 REPEAL OF CONFLICTING ORDINANCE.

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

§ 153.301.13 EMERGENCY CLAUSE.

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

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

ARTICLE 153.401 ZONING DISTRICT REGULATIONS

§ 153.401.1 ZONING DISTRICT BOUNDARY MAP.

(A) *Official Zoning Map.* This chapter consists of a map and text. The city 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 chapter 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 chapter 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.

§ 153.401.2 CLASSIFICATION OF DISTRICTS.

This chapter classifies and regulates the use of land, buildings, and structures within the city limits 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*.

(1) R-E, Residential Estate.

(2) R-1, Single Family Residential.

(3) R-2, Duplex and Patio Home Residential.

(4) R-3, Medium Density Residential.

(5) R-4, High Density Residential.

(6) R-MH, Manufactured Home Residential.

(7) R-ZL, Zero Lot Line.

(C) *Commercial*.

(1) C-1, Neighborhood Commercial.

(2) C-2, General Commercial.

(D) *Industrial*.

(1) I-1, Light Industrial.

(2) I-2, Heavy Industrial.

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

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

§ 153.401.3 GENERAL PROVISIONS.

(A) *Building separation*. Unless stipulated elsewhere, a minimum of ten 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.

§ 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 § 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 or 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 this chapter and shall be processed in accordance with Art. 153.301, Administration.

§ 153.401.5 APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations set by this chapter 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 chapter.

(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 chapter 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 chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(F) All territory which may hereafter be annexed to the city 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 this city. If construction is stopped for a period exceeding two years, the Planning Commission

may require, as a condition of renewing construction thereafter, that the building(s) meet all requirements for new construction.

(H) *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 feet above the floor does not exceed two-thirds 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.

(I) *Visibility.*

(1) All lots. In any required yard or any required setback area, nothing permanent over three feet shall be installed which materially impedes vision between vehicular or pedestrian traffic.

(2) Corner lots. On any corner lot, nothing permanent over three feet shall be installed within the sight triangle, as shown in the illustration in § 153.801.6.

§ 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 dwelling unit per five acres.

(2) Lot and area requirements.

(a) Min. Lot Area: 217,800 square feet. (five acres).

(b) Min. Lot Width: 100 feet.

(c) Max. Lot Coverage: 30%.

(d) Min. Street Frontage: 100 feet.

(e) Min. Lot Depth: 100 feet.

(3) Minimum Setback Requirements. (feet)

<i>Front</i>	<i>Side</i>	<i>Rear</i>
--------------	-------------	-------------

30	30	30
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(4) Height requirements.

(a) Maximum: 40 feet.

(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.

§ 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 the city. 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.*

<i>Zoning District</i>	<i>Maximum Density Permitted</i>
R-E	1 dwelling unit per 2 acres
R-1	1 dwelling units per acre
R-2	4 dwelling units per acre

R-3	8 dwelling units per acre
R-4	16 dwelling units per acre
R-MH	6 dwelling units per acre
R-ZL	9 dwelling units per acre
R-0	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 50 feet, except for lots fronting on cul-de-sac turnarounds and on curving street frontages, which must have no less than 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 35 feet of street frontage.

(b) *Depth.* Each lot, not including the R2 and zoning districts shall be a minimum of 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 feet at the building line. The minimum width for corner lots in a manufactured home subdivision shall be 60 feet at the building line.

(d) *Zero lot line lots.* One side yard setback must be no less than 12 feet, and the other side yard setback must be zero 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.*

<i>Residential Bulk and Area Standards</i>					
<i>District</i>	<i>Structure Type</i>	<i>Lot Area (sq. ft.)</i>	<i>Lot width (ft.)</i>	<i>Max. coverage</i>	
				<i>Interior Lot</i>	<i>Exterior/ Corner lot</i>
R-E	Single-family	87,120 (2 acres)	200	10%	10%
R-1	Single-family	43,560	120	40%	45%
R-2	Single Family & Duplex	21,780	100	50%	55%

R-3	Single Family & Duplex	9,600	80	40%	45%
R-4					
	All	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 feet from the front property line. The minimum front setback for side- or rear-loading garages shall be 20 feet from the front property line. The minimum garage setbacks apply to attached and detached garages.

(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).*

<i>District</i>	<i>Structure Type</i>	<i>Front</i>	<i>Side</i>		<i>Rear</i>
			<i>Interior</i>	<i>Exterior</i>	
R-E	Single-family	30	30	30	30
R-1	Single-family	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	10	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. 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 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 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 30 days of destruction or removal of the manufactured home.

(c) All other requirements of this chapter 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.

(2) *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.

§ 153.401.8 COMMERCIAL DISTRICTS.

(A) *General description.*

(1) 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:

- (a) Minimize any potential incompatibilities between commercial developments and other types of land use;
 - (b) 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;
 - (c) 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
 - (d) Provide sufficient and appropriate space to meet anticipated future needs for planned commercial developments in central shopping districts, regional, community and neighborhood shopping centers.
- (2) 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.*

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

(2) *Minimum setback requirements.* Standards: See table below.

Minimum Setback Requirements (ft.)						
District	Front		Side		Rear	
	<i>With Parking In Front</i>	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

(3) *Height requirements.*

(a) *Standards.*

(b) *Exceptions.* Any structure exceeding the listed maximum height shall be set back an additional one 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:

1. Minimum height of screening fence or wall shall be six feet.
2. Automobile, truck, tractor, mobile home, boat or motorcycle sales area shall not be required to screen fully assembled merchandise, ready for sale.
3. No permanent open display shall be permitted on sidewalks or public rights-of-way.
4. Storage space for automobile service stations when storing rental trucks or trailers must not exceed 4,000 square feet and must be paved and screening requirements met.

(e) *Open display setback.* There shall be a setback of 20 feet for open display of any kind.

§ 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.

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

(2) Minimum setback requirements.

(a) Standards (in feet):

<i>District</i>	<i>Front</i>		<i>Side</i>			<i>Rear</i>		
	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:*

<i>District</i>	<i>Max. Height (ft.)</i>
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 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 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.

§ 153.401.10 PLANNED UNIT DEVELOPMENT (PUD).

(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 ten 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:

1. *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.
2. *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.
3. *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.

4. *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:

1. Wetlands and water bodies, including the normal water surface area of unfenced retention ponds up to 50% of the required open space area;
2. Active detention ponds that include recreational equipment/facilities;
3. Vegetated/landscaped area, excluding required parking lot landscaping requirements;
4. Pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
5. Public plazas and hard surfaced recreation areas;
6. 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 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 feet.
- (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 ten feet from the front elevation of the house and shall be setback a minimum of 30 feet from the front property line.

§ 153.401.11 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 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 acres.

(6) *Zoning, Master Site Plan, and architectural elevation renderings.*

(a) 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.

(b) The following information shall be provided on the Master Site Plan:

1. Residential housing types;
2. Building setbacks;
3. Location of the central gathering area(s) such as a public plaza or courtyard;

4. 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);

5. Heights of all buildings and other structures;

6. Lot size, width, and depth;

7. All parking spaces including off-street and on-street;

8. Locations of all structures;

9. Housing densities by type, expressed in units per acre;

10. Traffic circulation pattern;

11. Street widths and sidewalks; and

12. Location of proposed signage.

(c) 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:

1. *Residential dwellings.*

a. Front, rear, and side elevations for each type of residential structure and architectural design.

b. Exterior/facade building materials list.

2. *Public gathering places.*

a. Ariel view of all public gathering places depicted on the Master Site Plan.

b. 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 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:

1. *Minimum area.* A minimum area of 15% of the total project area, exclusive of public right-of-way and parking lots, shall be devoted to common usable open space.
2. *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.
3. *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.

4. *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:

1. Wetlands and water bodies;
2. Lawns: 5% maximum of total percentage required;
3. Pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
4. Central gathering spaces such as plazas, parks, or courtyards;
5. Vegetated/landscape areas, excluding required parking lot landscaping requirements;
6. 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 and the following additional requirements:

- (a) Two off-street parking spaces must be provided for each residential unit, such as a driveway, carport, garage, and the like.
- (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 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 30 feet for a rear loading garage and 20 feet for a side loading garage. Front loading garages shall be recessed a minimum of ten feet from the front elevation of the house and shall be setback a minimum of 30 feet from the property line.

ARTICLE 153.501 OFF-STREET PARKING, LOADING AND LANDSCAPING

§ 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.

(C) *Existing spaces.* Parking spaces used in connection with an existing or continuing use or building on the effective date of this chapter, up to the number required by this chapter shall be continued and may not be counted as serving a new structure or addition.

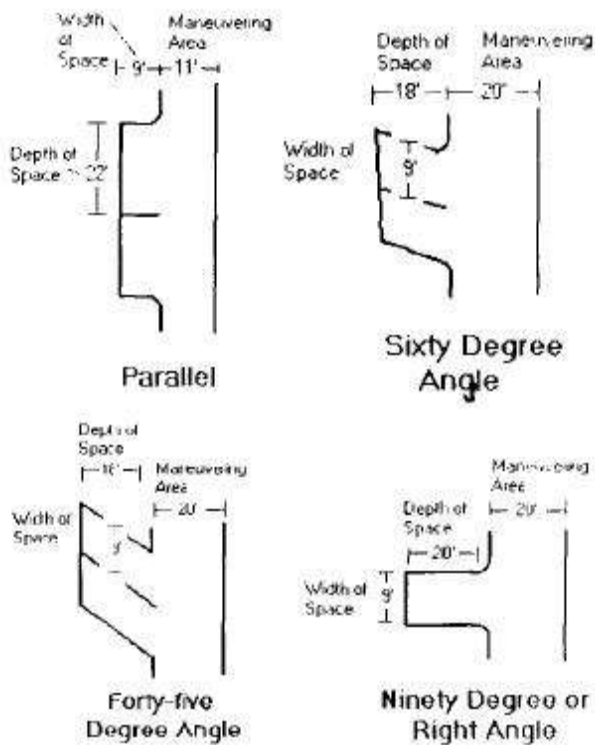
§ 153.501.2 PARKING DIMENSIONS.

(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 feet by 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 feet in width in the case of a dwelling and at least 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:

<i>Parking Dimensions</i>				
	<i>Width (ft.)</i>	<i>Depth (ft.)</i>	<i>Maneuvering Area (ft.)</i>	
			<i>One-way</i>	<i>Two-way</i>
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



§ 153.501.3 LOCATION OF OFF-STREET PARKING.

(A) *Maximum distance.* Off-street parking shall be located within 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 chapter 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.

§ 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 except in C-3 District or 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.

§ 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.

<i>Accessible Spaces Required</i>	
<i>Total Parking Spaces</i>	<i>Minimum Number of Accessible Spaces Required</i>
1-25	1
26-50	2
51-75	3
<i>Accessible Spaces Required (Cont'd)</i>	
<i>Total Parking Spaces</i>	<i>Minimum Number of Accessible Spaces Required</i>
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of all spaces
Over 1,000	20 spaces plus 1 space for each 100 spaces over 1,000

§ 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, and the like. 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.

<i>Number of Parking Spaces Required</i>	
<i>Land Use</i>	<i>Parking Ratio</i>
RESIDENTIAL	
Single-Family Dwelling	2 spaces per dwelling unit
Patio Home Dwelling	2 spaces per dwelling unit
<i>Number of Parking Spaces Required (Cont'd)</i>	
<i>Land Use</i>	<i>Parking Ratio</i>
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 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
OFFICE AND INSTITUTIONAL USES	
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 seats
Church Sanctuary	1 parking space for each four seats based on maximum seating capacity in the principal assembly room; provided, however, that churches may establish joint parking facilities for not to exceed 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>Number of Parking Spaces Required (Cont'd)</i>	
<i>Land Use</i>	<i>Parking Ratio</i>
SCHOOLS AND INSTITUTIONS	
Nursery, Kindergarten and Day-Care Centers	1 space per 500 sq. ft. of net floor area and one space per employee. Loading and unloading spaces shall be required at a rate of one for each ten 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 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 students, whichever is greater
Business and Professional Office (and similar use or establishment)	1 space per 300 sq. ft. of net floor area. For structures larger than 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
COMMERCIAL USES	
General Business and Retail Sales (except as otherwise provided herein)	1 space per 250 square feet of net floor area up to 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
<i>Number of Parking Spaces Required (Cont'd)</i>	
<i>Land Use</i>	<i>Parking Ratio</i>
Bowling Alleys	6 spaces for each lane
Restaurants (and similar establishments serving food and beverages)	1 space per each 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 10 feet wide by 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	5 spaces plus 1 space for each 200 sq. ft. of net building area.

washing facilities and similar uses)	
INDUSTRIAL USE	
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.

§ 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.

§ 153.501.8 OFF-STREET PARKING LOTS IN RESIDENTIAL DISTRICTS.

Whenever off-street parking lots for more than five 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.

§ 153.501.9 JOINT PARKING FACILITIES.

Whenever two 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.

§ 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 feet in width, 35 feet in length, and 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 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 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 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.*

<i>Floor Area (sq. ft.)</i>	<i>Loading Spaces Required</i>
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
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§ 153.501.11 APPEALS.

Appeals to parking requirements may be made as stipulated in Art. 153.301 Administration.

§ 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 chapter 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 chapter 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 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 this code. 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 domestic/household animals over the age of four 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: one colony.

(2) More than one-quarter acre but less than one-half acre lot size: two colonies.

(3) More than one-half acre but less than one acre lot size: three colonies.

(4) One acre or larger lot size: four 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 six feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six 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 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, and the like.

(F) One no illuminated sign, no larger than eight square feet per side, and four 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 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 two days). A maximum of four 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 automobiles plus stacking space for no less than ten 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 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 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 4,000 square feet of area.

(6) There shall be at least 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 feet in height, provide at least 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 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 to ten 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 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 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 1,500 feet from any residential district unless enclosed by a solid fence or wall at least six feet high, but in no case shall a track be located less than 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 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 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, and may be permitted in accordance with the following provisions.

(A) 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.

(B) *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, and the like.

(5) Residential child care: is defined as one to four children under the age of 18, excluding those residing in the home.

(C) *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.

(D) *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 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 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). 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 NON-RESIDENTIAL USES IN OR ABUTTING R DISTRICTS.

(A) 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:

<i>Type of Structure or Element of the Facility</i>	<i>Minimum Building Separation</i>
Outdoor Facility or Use	
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.
Indoor Facilities or Use	
Air-conditioning tower or compressor unit	50 ft.
<i>Type of Structure or Element of Facility</i>	<i>Minimum Building Separation</i>
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:	100 ft.
If not fully air-conditioned:	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:	50 ft.
If not fully air-conditioned:	100 ft.

(B) All uses may be reduced to a separation of no less than 50 feet if Type A Screening, as described in Ch. 152, is provided for the property line abutting the residentially zoned property.

§ 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 or she has first obtained a vending permit from the Building Department, except as exempted in division (C) below. All permits shall be issued according to the regulations herein.

(2) *Application for permit.* Applicants may request a permit from the Planning Department for a short-term sale lasting no longer than five 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 applicants 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 division (G).
- (d) Detailed scaled drawing, or photo, of the conveyance showing dimensions and location of any proposed signs.
- (e) Written consent of the property owner.
- (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 Counts 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) 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 Code Official or his or her designee of the city's decision to issue or deny the vending permit not later than 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 or her designee shall be carried with the vendor whenever he or 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.* All 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 this chapter 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 or her person.
- (d) Sidewalk sales lasting no longer than three consecutive days, so long as at least four feet 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, the Grape Festival, and the Rolling Relics. Such merchants/vendors shall be approved by the city or the organizing or administering agency. Any and all merchants/vendors must be located by the area designated by the organizing or administering agency.
- (g) Farmers and growers selling fruits and vegetables, farm products or provisions, which they have grown, provided these products are sold on parking lots where the owner has granted permission;

(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 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 eight feet in length, four feet in width, and six feet in height, (exclusive of canopies or umbrellas).

(2) *Vending trailer.* Vending trailer dimensions shall not exceed eight through ten feet in length, six feet in width, and seven through eight feet in height (exclusive of tires).

(G) *Location restrictions.* No vendor shall be permitted to operate in the following areas:

- (1) Within any residential district.
- (2) Within ten feet of any street intersection or pedestrian crosswalk.
- (3) Within ten feet of any driveway, loading/unloading 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) Any area within 100 feet of a hospital, college, university, elementary school, middle school or high school.
- (7) Within fifty feet of any fire hydrant or fire escape.
- (8) Within ten feet of any parking space or access ramp designated for persons with disabilities.
- (9) In a public parking space or public parking lot.
- (10) Within 25 feet of any bus stop sign.
- (11) Within 50 feet of driveway to police or fire station.
- (12) Within 50 feet of principal public entrance to food service business not owned by vendor.
- (13) Any area that obstructs pedestrian traffic. Must provide four feet clear passageway for pedestrians at all times.
- (14) Vacant or undeveloped property.
- (15) Any location other than the assigned location as expressly described on the permit.
- (16) On a city sidewalk or other public easement or within 20 feet of a public street or roadway.

(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 7:00 a.m. and 12:00 a.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) *Uttering and trash removal.*

(1) Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending site 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 or her 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 or her 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 § 153.801 of the Zoning Code or lighting that is not in compliance with 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 this code 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 to the City Council. 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 year from the date that the revocation took effect.

(4) *Penalty.* The penalty for violating any provision of this chapter shall be governed by the penalty provision in § 10.99.

§ 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 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 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 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 feet wide, thus the minimum width for a one way road with parking on one side would be 20 feet.
- (4) Curves and turning radii shall be constructed to safely handle vehicles eight and one-half feet wide and up to 40 feet long.
- (5) There shall be at least three off-street parking spaces designated in the RV park for each two RV sites.
- (6) All vehicle circulation or parking areas shall be paved with a minimum of two inches of asphalt on seven and one-half 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 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 Street Department.
- (4) All parks with more than 25 sites shall have two or more entrances/exits. All parks with more than 100 sites shall have three 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 5% 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 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 8% 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:* 25 feet, except when the RV park fronts on a state highway then the minimum shall be 50 feet.

(2) *Minimum park side setback:* When abutting a dedicated public right-of-way, the side setback shall be 25 feet on the side street; when abutting any other zone district, the side setback shall be 15 feet along the interior lot line.

(3) *Minimum park rear setback:* 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 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 months in any one 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 months in any 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 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 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 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 square feet. Existing uses of this type shall have two 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. § 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 chapter, upon conviction, is punishable by a fine not to exceed \$500;

(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 \$250 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 chapter 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 seven 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 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 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 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 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 five 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 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 such periods for the same location within any one calendar year.

(C) *Temporary classrooms.* Up to two 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 15 days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed more than 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 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 one-half acre and one acre, unless otherwise approved by Planning Commission. But, in no instance shall a small wind energy system exceed 90 feet. 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 five 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 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 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 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.

§ 153.601.27 WIRELESS COMMUNICATION FACILITIES (WCF).

(A) General provisions.

(1) *Applicability.* Except as otherwise provided in division (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 50 feet in height and that are customarily associated with residential uses (not of the commercial nature). Such towers and antenna's include division (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.

1. 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 this chapter) from the Planning Commission, except for instances where a building permit can be issued with administrative approval as outlined in division (B) (Administrative Approvals).

2. WCF not approved as provided in division (a) above or exempted under the provisions referenced in division (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 division (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 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 20 feet to the height of the existing tower and would cause no more than 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 division (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 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, to include reasons why co-location is not obtainable as set forth in division (4).

(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 chapter 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 division (4).

(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 collocation 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 chapter 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 chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six 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 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 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 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 chapter.

(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 and knowledgeable in the design and/or registered by the state 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 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 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 24 months at the owner's expense, by a structural engineer registered and/or licensed in and by the state 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 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 chapter 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 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 90 feet for a single use, 120 feet for two users, and 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 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 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 feet in width shall be provided, planted with a minimum of one evergreen tree and four shrubs per 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 courses of evergreen trees that are, at the time of initial planting, at least six 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 chapter 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 chapter 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 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. 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 chapter 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 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 chapter (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 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 NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND

§ 153.701.1 CONTINUATION OF NONCONFORMING BUILDINGS, STRUCTURES AND USES.

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

§ 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.

§ 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 chapter. 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.

(B) If two 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 chapter 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 chapter 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 chapter nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

§ 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 be enlarged or relocated on the lot one time, provided the enlargement(s) does not exceed the greater of 30% of the largest original structure (if more than one structure exists on said parcel) or 8,000 square feet. Any expansion is subject to all provisions outlined at code section 153.301.6. 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 chapter.

(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 chapter. 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.

§ 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

§ 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.

§ 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 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.

§ 153.801.3 APPLICATION FOR A SIGN PERMIT.

Signs permitted in § 153.801.9 signs permitted with a sign permit shall be allowed with a sign permit and signs permitted in § 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.

§ 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 months or the signs are not in conformance with the approved application. The Building Department may grant one 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 § 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 chapter.

(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.

§ 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.

§ 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.

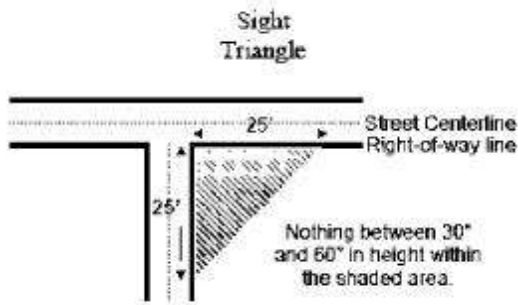
(b) Real estate signs.

(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 feet 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 § 153.801.11(A).

(3) *Copy rotation.* Each message shall be displayed for at least three seconds before alternating to the next message without violating § 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 three seconds before scrolling off.

(H) *Nonconforming, obsolete, and unpermitted signs.* 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.

§ 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 square feet.

(c) *Maximum height.* Six 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 square feet per sign face.

(c) *Maximum height.* Twelve feet.

(d) *Removal.* The construction sign shall be removed within seven 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 square feet per sign face.

(c) Maximum height. Twelve 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.*

(a) Freestanding: 18 square feet.

(b) Wall: Six 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 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 square feet.

(2) *Maximum height.* Four 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 square feet.

(2) *Maximum height.* Six 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.*

(a) *Residential.* Six square feet.

(b) *Non-residential.* Thirty-two square feet.

(2) *Maximum number permitted.* One per lot.

(3) *Time period.* Signs may be erected up to two weeks prior to the event.

(4) *Removal.* Signs shall be removed within three 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 this chapter.

(M) *Political signs.* Temporary political signs erected in connection with elections or political campaigns, subject to the following regulations:

(1) *Maximum height.* Eight 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 60 days prior to a primary, general or special election

(4) *Removal.* Such signs shall be removed within three 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 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.*

1. Without a rider: six square feet.

2. With riders: eight square feet.

(b) *Maximum height.* Six feet.

(c) *Maximum number permitted.*

1. Freestanding. One per street frontage.

2. Wall. One per dwelling unit.

(d) *Riders permitted.* Two sign riders are permitted as long as the maximum sign area does not exceed eight 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 square feet for a single user, or four square feet when shared by multiple projects.

(b) *Maximum height.* Four feet.

(c) *Maximum number permitted.* Four 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 road miles from the project or property for which directions are given.

(e) *Intersections.* Up to two directional signs are allowed at intersections. However, each user is allowed only one 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 square feet.

(2) *Maximum height.* Eight feet.

(3) *Maximum number permitted.*

(a) *Freestanding.* One per street frontage.

(b) *Wall.* If the entire building is for sale or lease: one per building facade. If portions of the buildings are for sale or lease: one 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 square feet.

(2) *Maximum height.* Eight feet.

(3) *Maximum number permitted.* Four 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 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 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 days prior to the sale. Signs shall be removed one day after the event. The sign shall include the address and date(s) of the sale.

(2) *Maximum area.* Six square feet.

(3) *Maximum number permitted.* One at the site of the sale and one 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 feet 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 seven days prior to the sale. Signs shall be removed one 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.

§ 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 R-O, C-1, or C-2, DC, and DE 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 feet of width for unrestricted pedestrian movement with the sidewalk signs in place.

(2) *Maximum height.* Four feet.

(3) *Maximum width.* Two and one-half 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 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, and the like.

(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.

§ 153.801.9 SIGNS PERMITTED WITH A SIGN PERMIT.

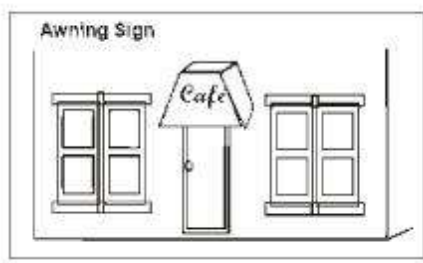
The following signs are allowed with a sign permit, subject to the size, height and location regulations specified in this section. A common signage plan is required in accordance with § 153.801.2 Common Signage Plan. Erection of the following signs without a permit is a violation of this section.

(A) *Height and area regulations.*

<i>Zoning District</i>	<i>Sign Types Permitted</i>	<i>No. of Signs Permitted</i>	<i>Max. Height</i>	<i>Maximum Sign Area (per sign face)</i>
A-1 RE R-1 R-2 R-3 R-4 PRD	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
C-1	Freestanding	1/street frontage	24 ft.	½ sq. ft. / linear ft. of street frontage, not to exceed 200 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.
<i>Zoning District</i>	<i>Sign Types Permitted</i>	<i>No. of Signs Permitted</i>	<i>Max. Height</i>	<i>Maximum Sign Area (per sign face)</i>

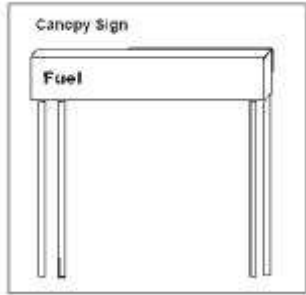
C-2 PUD I-1 I-2	Freestanding	1/street frontage		1 sq. ft./linear ft. of street frontage, not to exceed 100 sq. ft.
	Wall	1/wall For lease spaces, 1/wall of lease space	No maximum	15% of wall area (Includes canopy, awning, window, and door signs) A minimum of 25 sq. ft. of wall area permitted.
	Awnings	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:



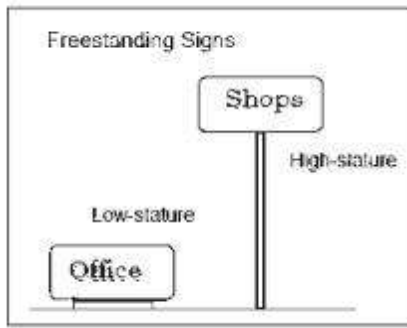
- (1) *Placement*. The sign shall be flat against the surface of the awning.
- (2) *Clearance*. The sign shall maintain a clearance of eight feet above a public right-of-way (C-1, C-2, I-1 and I-2 zoning districts only) or front yard.
- (3) *Setback*. The sign shall not be closer than two feet, measured 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 one 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.*

<i>Condition</i>	<i>Min. setback from property line</i>
Sign area of 32 sq. ft. or less	5 ft.
Sign area more than 32 sq. ft.	10 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 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 § 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:

1. The information contained on the sign must relate to medical facility services;
2. Each sign shall not exceed 12 feet in height and 50 square feet in area;

3. The number of signs allowed shall not exceed a ratio of one sign per 150 feet of medical facility property street frontage measured on the street on which the signs are to be located; and

4. All signs associated with the medical facility shall be approved as part of a common signage plan in conformance with the regulations of § 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:

1. The signs comply with other applicable provisions of the chapter;
2. The views of adjacent properties or from adjacent properties are not impaired;
3. The signs do not interfere with public utilities, government uses, transportation, and landscaping;
4. The width of the street, the traffic volume, and the traffic speed warrant the proposed signage; and
5. 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.* Six feet.

(c) *Materials.* The sign display area shall be completely enclosed with materials that match the facade 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 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.

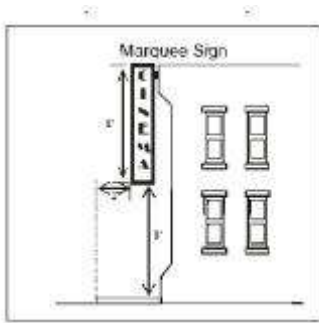
(2) *Permanent feature.* Identification signs shall be incorporated into a permanent landscape feature such as a wall, fence, or masonry column.

(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 feet.

(2) *Setback*. No marquee sign may be closer than two 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.

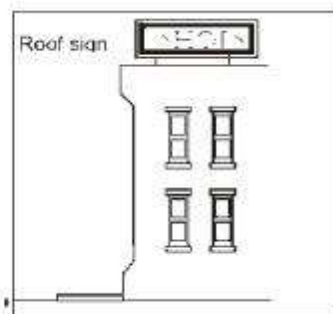
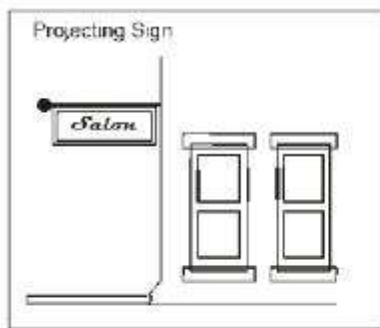


(G) *Noncommercial signs*. Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this chapter. Noncommercial signs are subject to the same permit regulations, restrictions on size and type, and other conditions and specifications as apply to the 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 feet beyond the top of the wall.

(2) *Setback*. The sign may not extend into a required front yard more than six feet and no closer than two 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 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 foot clearance to the walking surface.

(2) *Setback.* No sign shall be closer than two 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 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.

§ 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 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 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 six 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.* Six 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 § 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.

(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 two and one half feet in width and five feet 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 three 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.

§ 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;
- (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 chapter; and
- (4) Off-site signs specifically permitted within this chapter.

(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 § 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 § 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 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.

§ 153.801.12 ENFORCEMENT.

Code Enforcement Officers may remove the following signs that are in violation of this chapter: 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.

§ 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

		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	153.60 1.3	P								C	P	P	P
Animal kennel or shelter	153.60 1.3	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	153.60 1.3	P	A	A									
Apiculture	153.60 1.4	P	C	C	C	C	C	C	C	P	P	P	P
Botanical garden		P											
Chicken, hobby	153.60 1.11	P	P	A	A								
Community garden		P	P	P	P	P	P	P	P				
Greenhouse		P	P										
Livestock market		P								C	P	P	P
Plant nursery		P											C
Slaughterhouse		C									P	P	P
Stable, commercial		P											

		AG	RES							COMM		IND	
	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R- MH	R-ZL	C1	C2	I1	I2
RESIDENTIAL													
Dwelling - accessory	153.60 1.4	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	153.60 1.12	P	P	P	P	P	P	P	P				
Home occupation - type b	153.60 1.12	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		
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		
		AG	RES							COMM		IND	

	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R-MH	R-ZL	C1	C2	I1	I2
Conference/convention center											P	P	P
Community center	153.60 1.1	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	153.60 1.8	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	153.60 1.8	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	153.60 1.19	C	C	C	C	C	C	C	C	C	C	C	C
Recreational vehicle park	153.60 1.17												
SERVICES													
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	153.60 1.6									C	P	P	P
Cemetery or mausoleum		P	C	C	C	C	C	C	C	P	P	P	P
		AG	RES							COMM		IND	

	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R-MH	R- ZL	C1	C2	I1	I2
Child care - commercial	153.60 1.7c	P	C	C	C	C	C	C	C	P	P	C	C
Child care - residential (4 children)	153.60 1.7a	P	P	P	P	P	P	P	P	P	P	P	P
Child care - residential (5-10 children)	153.60 1.7b												
Copy services										P	P	P	P
Correctional facility or jail		P										P	P
Crematory											C	P	P
Financial institution										P	P		
Funeral home										C	C		
Governmental service facility		P								P	P	P	P
Lodging - bed & breakfast	153.60 1.5	C	C		C	C	C			C			
Lodging - hotel/motel											P		
Maintenance service										P	P	P	P
Medical services - hospital	153.60 1.13										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

		AG	RES							COMM		IND	
	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R-MH	R- ZL	C1	C2	I1	I2
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
RETAIL													
Artisan shop										P	P		
Auto and vehicle sales/rental											P	P	P
Bakery										P	P		
Bar, lounge or tavern											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	153.60 1.16									C	P	P	P
Outdoor vending, public right-of-way	153.60 1.16												

		AG	RES							COMM		IND	
	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R-MH	R-ZL	C1	C2	I1	I2
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	153.60 1.22										C		
Sidewalk café in public right-of-way	153.60 1.23												
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	153.60 1.14										C	P	P
Taxidermy		P									P	P	P
Salvage yard	153.60 1.20	C											C

		AG	RES							COMM		IND	
	Supp. Regs.	A-1	RE	R1	R2	R3	R4	R-MH	R-ZL	C1	C2	I1	I2
Warehousing or wholesaling											C	P	P
TRANSPORTATION, COMMUNICATION & UTILITIES													
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	153.60 1.21	C											C
Solar energy system	153.60 1.24	A	A	A	A	A	A			A	A	A	A
Solid waste disposal		C						P					C
Transportation facilities excluding airports											C	P	P
Utility facility		C	C	C	C	C	C			C	C	C	C
Wind energy system, small	153.60 1.26	A	A	A	A	A	A			A	A	A	A
Wind energy system, large		C											C
Wireless communication facility													
(cell towers)	153.60 1.27	C	C	C	C	C	C			C	C	C	C
OTHER													
Building, accessory - nonresidential	153.60 1.1	A	A	A	A	A	A			A	A	A	A
Temporary used		C	C	C	C	C	C			C	C	C	C

Appendix B

Flag Standards

Excerpts from The Flag Code

§ 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.

<i>Flag Size and Flagpole Standards</i>			
<i>Home Use</i>		<i>Public Display (not home-use)</i>	
<i>Flagpole</i>	<i>Flag</i>	<i>Flagpole</i>	<i>Flag</i>
15'	3'x5'	20'	4'x6'
20'	3'x5'	25'	5'x8'
<i>Flag Size and Flagpole Standards (Cont'd)</i>			
<i>Home Use</i>		<i>Public Display (not home-use)</i>	

<i>Flagpole</i>	<i>Flag</i>	<i>Flagpole</i>	<i>Flag</i>
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'