

ORDINANCE NO. 2013-09-440

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

WHEREAS, after due notice as required by law, the Tontitown Planning Commission has considered amendments to Tontitown Code Section 152 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 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., for the City of Tontitown, a copy of which is attached hereto and made part of this ordinance by reference. The attached Code Section 152 et. seq. supersedes and prior code sections regarding zoning regulations within the City of Tontitown. Any prior regulations or code sections in conflict with the attached Code Section herein adopted are hereby repealed.

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

PASSED AND APPROVED THIS 3 DAY OF September, 2013.



Mayor of the City of Tontitown

ATTEST:



Recorder-Treasurer of City of Tontitown

SPONSOR:

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ARTICLE 152.100 GENERAL PROVISIONS

§ 152.100.01 TITLE.

These regulations shall officially be known, cited and referred to as the “Development and 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 Tontitown Planning Commission, ratified by the Tontitown 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 plats 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 two or more lots;
- (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 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 preliminary plat approval, and shall not convey title to any lot or lots before obtaining from the Planning Commission a certificate of final plat approval and 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 lot within a platted subdivision. 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. 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 or credit must also be submitted to the city prior to the filing of the final plat. The maintenance bond, cash deposit or letter of credit must meet the following conditions:

(a) It must be in an amount of 50% 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 50% 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 or Staff 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 or staff.

(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 Planning Commission 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.
- (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.
- (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 Staff and other appropriate city and public agency staff shall review the proposed subdivision for conformance with these regulations.

(2) In its review, the City Staff 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 Staff 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.

§ 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 engineer , City Building Official or their designees 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 Planning Clerk.

(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 their 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 in city council minutes.

§ 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 Engineer 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 Engineer 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.

§ 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 Planning Commission 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 Planning Commission shall review minor subdivisions, property line adjustments and correction plats. The City Engineer 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 Planning Commission 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 Planning Staff 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 Planning Commission Chairman 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 of the final recorded plat shall be furnished by the applicant to the Planning Clerk.

§ 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 Planning Commission 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 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 Planning Staff. The purpose and intent of the pre-application conference is to afford the applicant an opportunity to obtain the advice of the Planning Staff 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 Commission shall be permitted (upon review and approval by city engineer and 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 Planning Clerk.

(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 Planning Commission and representatives for the water, sewer and electrical consultants or agencies, as required by the Planning Commission, 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 Engineer shall administratively review:

(a) *Residential.* Any residential development not exceeding two family units; or

(2) *Action.* Within 30 days of receipt of the complete large scale development plans by the Planning Commission, the commission shall recommend for approval, approval with conditions, or disapproval of said plans. If the Planning Commission recommends, a signed copy of plan will be forwarded to the developer. If the plans are approved with conditions, the conditions shall be set forth in minutes of the Planning Commission meeting. If revised plans and proof of performance are not provided to the Planning Commission within 14 days of Planning Commission approval or their action is revoked. 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 Planning Commission 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 14-day period that a decision will not be made within the 14-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 Planning Commission 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 Planning Commission. In no event may any modifications to a development plan be made without prior approval of the Planning Commission. 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 Engineer.

§ 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.

§ 152.700.09 APPEALS.

(A) *Planning Commission Determination:* Any Decision of Planning Commission may be appealed pursuant to the City Council.

§ 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 Planning Clerk. 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	Planned Unit Development	Incidental Subdivision
General Requirements						
1	Payment of application fees.					
2	Provide a plat or plan in DWG format to 1"=100' scale (blue lines for review may be presented at 1"=20', 1"=50') of all required information. Two (2) copies of the plat or plan (24" wide by 36" high) folded to page size with title information on the outside; as well as a PDF copy of this document. "All DWG files submitted shall be on Arkansas State Plane North coordinate system." For County Filing: Surveys-Owner name on the survey (No larger than 18x24 x/copy reduced to 8 1/2 x 11 for scanning.) Plats-(No larger than 18x24) 2 original signatures. NO MYLAR. The Plat should meet minimum standards as set forth by the State Land Surveyor's Office.	√	√	√	√	√
3	One (1) Drainage Report plus 1 copy in PDF format, grading and soil erosion plan (sites over one (1) acre). Refer to the drainage criteria Manual.			√		
4	Lighting. (a) Lighting Cut Sheet. The type of lighting fixture utilized must be a "cut-off" fixture. (b) Lighting Plan with luminosity plan in compliance with Chapter 152.1000.11			√		
5	Architectural Drawing Elevations (24" wide by 36" high) as well as a PDF copy of this document. Showing each side of the structure, all entrances, windows, site objects and fixtures to include color and type of material.			√		
6	Copy of the warranty deed showing ownership of property.					√
7	Copy of the recorded plat.					√
8	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. Include property owner name, parcel number and zoning.	√	√	√	√	√
9	Names, addresses, telephone number, e-mail addresses and fax numbers, if available, of all parties involved in project. Include registration and license number.	√	√	√	√	√

	Requirements	Preliminary Plat	Final Plat	Large Scale Development	Planned Unit Development	Incidental Subdivision
10	North arrow, scale, dates of preparation, zoning classification, and proposed use.	√	√	√	√	√
11	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. (Note: Preliminary Plats must have a subdivision name.)	√	√	√	√	√
12	Provide a complete and accurate legend.	√	√	√	√	√
13	Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress.	√	√	√	√	
14	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.	√		√	√	√
15	Point-of-beginning from a permanent well-defined reference point. This P.O.B shall be clearly labeled on the drawing.	√	√	√	√	√
16	Curve data for any street, which forms a project boundary. Curve data shall include radius and arc distance.	√		√	√	√
17	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	√	√	√	√	√
18	Show 100 yr. Floodplain and/or Floodway and base flood elevations. Reference the FIRM panel number and effective date.	√	√	√	√	√
19	Provide a benchmark (IF WITHIN 1/2 MILE) - clearly defined with an Accuracy of 1/100'. This Benchmark must be tied to USGS Datum.	√	√	√		
20	Spot elevations at grade breaks along existing road centerlines, gutter lines and top of curbs or edge of pavement.	√		√		
21	A general vicinity map of the project with a radius of 1 mile from the project.	√	√	√	√	√
22	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.	√		√	√	
23	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.	√		√	√	√

	Requirements	Preliminary Plat	Final Plat	Large Scale Development	Planned Unit Development	Incidental Subdivision
24	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.)	√	√	√	√	√
25	Sign-off block.	√	√	√	√	√
26	Revision block.	√	√	√	√	√
Existing Utilities						
27	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.	√		√	√	√
28	Existing easements shall show the name of the easement holder and purpose of the easement. If an easement is blanket or indeterminate in nature, a note to this effect shall be placed on the plat or plan.	√	√	√	√	√
29	Regarding all proposed storm sewer structures and drainage structures: (a) Provide structure locations and types. (b) Provide pipe types and sizes.	√		√	√	
Proposed Utilities						
30	Regarding all proposed sanitary sewer systems: If you should have system design questions, please contact the City of Tontitown Water Department before submittal. (a) Provide pipe locations, sizes and types (b) Manhole locations of rim and invert elevations (c) Profiles including slope in percentage and existing and proposed utilities when crossing or parallel in vicinity. (d) Provide plan and route for access to all manholes. (e) If lift-station is proposed, submit plans to the Water Department Engineer. (f) Show off-site plans (if applicable) for gravity sewer and force mains (g) Show off-site plans (if applicable) for gravity sewer and force mains serving development.	√		√	√	
31	Note the occurrence of any previous overflow problems on-site or in the proximity of the site. (Contact Water Department at 479-361-2700.)	√		√	√	
32	If a septic system is proposed, note it on the plat or plan. Show proposed location of septic tank and lateral fields including detail of leachate pipes and drain fill material.	√		√	√	
33	Regarding all proposed water systems, on or near the site: (a) Provide pipe locations, types and sizes. (b) Show that design of the water and sewer utilities will minimize conflict with other underground utilities, and provide clear copy.	√		√	√	
34	Note the static pressure and flow of the nearest hydrant.	√		√	√	
35	Show location of proposed fire hydrants, meters, valves, backflow preventers and related appurtenances.	√		√	√	

	Requirements	Preliminary Plat	Final Plat	Large Scale Development	Planned Unit Development	Incidental Subdivision
36	Locations of all related utility structures (pedestals, poles, etc.).	√		√	√	
37	Locations of all utility lines (note whether the line is below or above ground).	√		√	√	
38	A note shall be placed where streets will be placed under the existing overhead facilities and the approximate change in grade for the proposed street.	√		√	√	
39	The width, approximate locations, and purposes of all proposed easements or rights of way for utilities, drainage, sewers, floor control, ingress/egress or other public purposes within and adjacent to the project.	√	√	√	√	√
Proposed and Existing Streets, Rights-of-Way, and Easements						
40	A layout of adjoining property (within 300') in sufficient detail to show the affect of proposed and existing streets (including those on the master street plan), adjoining lots, and off-site easements. This information can be obtained from the master street plan, aerial photos, and the gis website found at http://tontitowngis.com/ .	√		√	√	
41	Identify and dimension all access easements, including ingress and egress.	√	√	√	√	√
42	A preliminary easement plat on an individual sheet shall be required by Planning Staff. After construction of the approved large-scale development, a final easement plat must be submitted to the Planning Office.			√	√	
43	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. Street names will need to be provided and approved prior to final plat acceptance. Names shall be final as approved on the Preliminary Plat. All items shall be dimensioned and labeled if previously dedicated per a separate document.	√	√	√	√	
44	The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest 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. Avoid using blocks. The total number of lots shall be indicated on the plat. Subdivision names shall be shown and final as approved on the Preliminary Plat.	√	√		√	√

Requirements		Preliminary Plat	Final Plat	Large Scale Development	Planned Unit Development	Incidental Subdivision
Subdivision of Land						
45	The designation of all "out lots" and anticipated uses, if known.	√	√		√	
46	For phased development, a plat showing all phases is required.	√			√	√
Site Specific Information						
47	Provide a note of any known existing erosion problems on-site or within 100' 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.	√		√	√	
48	The location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, and underground structures within the project.	√		√	√	
49	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.	√		√	√	
50	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 (abatement wall, signage, etc.)	√		√	√	
51	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.	√	√	√	√	
52	Indicate the use and list in a table the number of units and bedrooms.			√	√	
53	For non-residential use, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.			√	√	
54	The location and size of existing and proposed signs, if any. In compliance with Code Section 153.801	√		√	√	
55	Location and width of curb cuts and driveways. Dimensions all driveways and curb cuts from side property line and surrounding intersections.	√		√	√	
56	Location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicapped accessible parking spaces. Parking should be in accordance with Chapter 153.501.			√	√	

	Requirements	Preliminary Plat	Final Plat	Large Scale Development	Planned Unit Development	Incidental Subdivision
57	Location of buffer strips, fences or screen walls, where required.	√		√	√	
58	An index including acreage before and after the subdivision.	√				√
59	Indicate location of garbage service.			√	√	
60	A description of commonly held areas, if applicable, and designate responsible entity(ies) for maintenance and property taxes.	√	√	√	√	
61	Draft of covenants, conditions, and restrictions, if any.	√	√	√	√	
62	A written description of requested waivers from any city requirement.	√	√	√	√	
63	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.	√	√	√	√	√
64	Size, location, and type of all existing trees over six inches (6") in diameter except in areas determined by the City Building Inspector to be heavily wooded.					
65	Landscape plan, including irrigation plan, in accordance Chapter 150.02 of Tontitown Building Regulations and 152.1300.			√	√	
66	Provide plan sheet showing that Design Standards for building exterior are accordance with Chapter 152.1000.		√	√		
67	Show all sidewalks, existing and proposed.	√	√	√	√	√
68	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, and City Department Heads.		√			

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, Large Scale Developments, PUDS.* 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, Lot Splits/Property Line Adjustments.*

(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 _____

Mayor , City of Tontitown

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 3/4-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 gemotric 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.

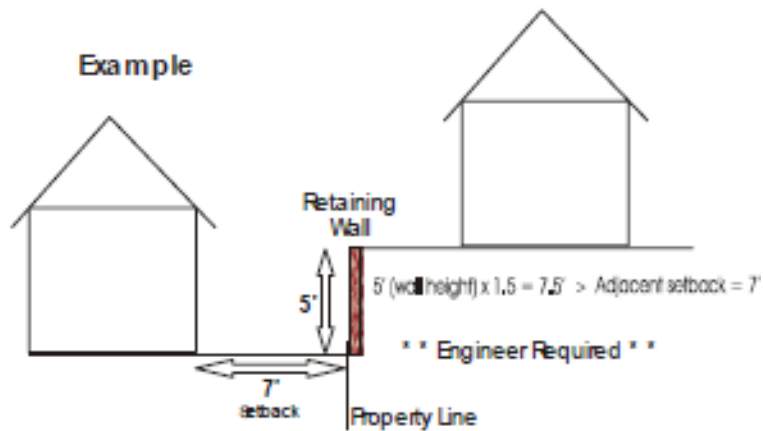
(c) *Compliance.* All retaining walls shall be installed in compliance with the retaining wall regulations and with the information shown on the approved plot plan and retaining wall permit application form.

(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.

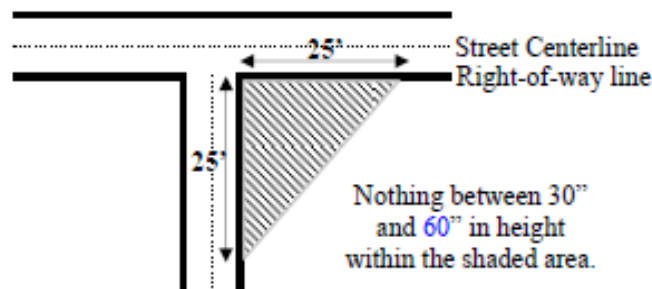
$$\text{Height of wall} \times 1.5 \geq \text{Adjacent Setback}$$



(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.

Sight Triangle

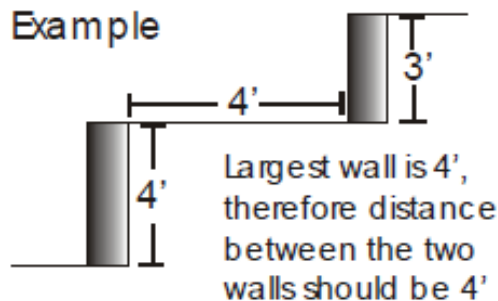


7. Easements

- (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.**

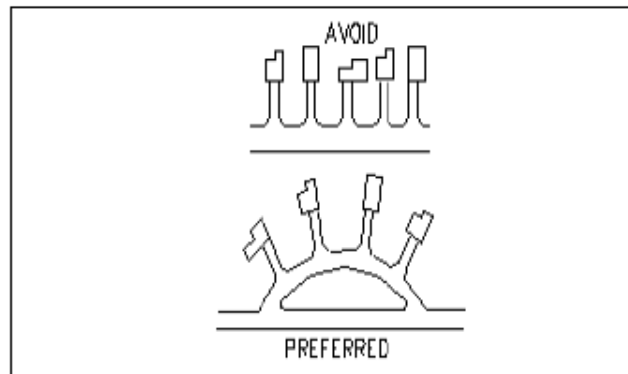
The minimum distance between drives shall be 25 feet.

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.

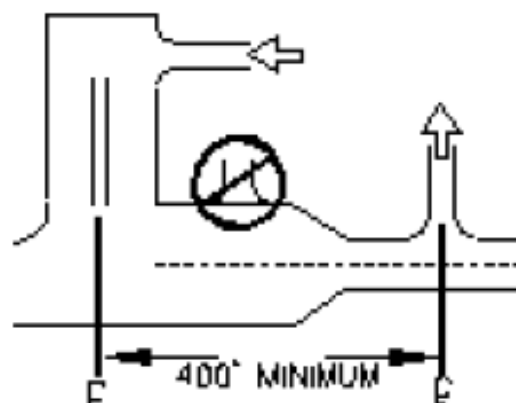
C. Residential and Subdivision Access. No residential lot shall be permitted direct access to a collector, minor, or principal arterial street. All residential subdivision development contiguous to a collector, minor, or principal arterial street shall orient frontage to a local street, and back the 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.

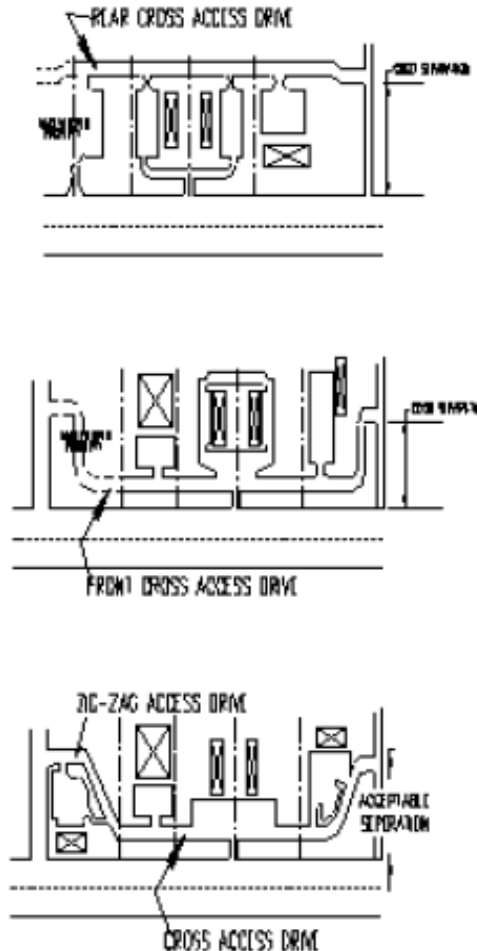
Deceleration Lane



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

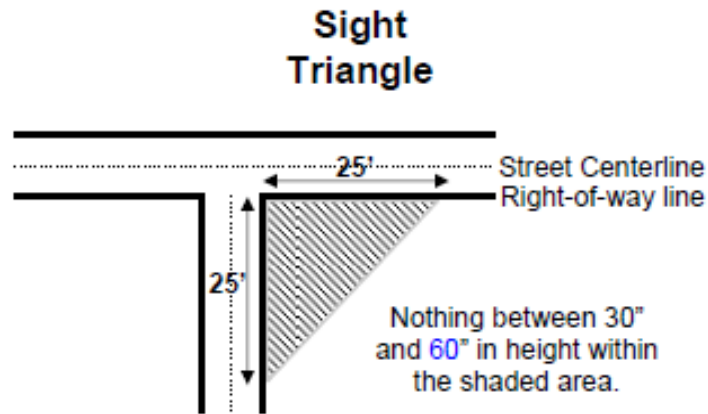
A. Driveway Width. Commercial, industrial, and multi-family driveway widths shall meet the following guidelines:

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.

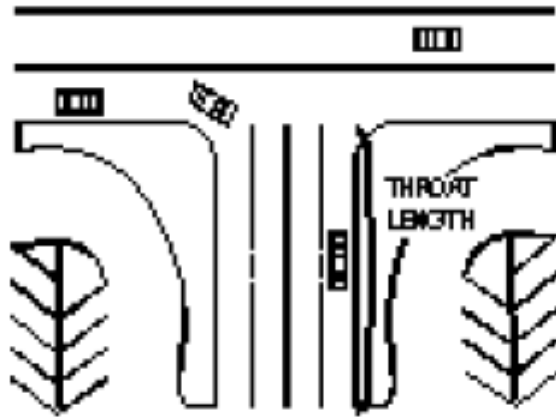


D. **Throat Length.** The length of driveways or “Throat Length” shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. General 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 Engineer or 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.

§ 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.

(D) If minimum lot size created by preliminary plat exceeds ten acres the Planning Commission may waive certain requirements.

§ 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 amount equivalent to the estimated cost of constructing the required sidewalk as of the date of final plat approval; and, provided further, that the Planning Commission may waive the sidewalk requirement prescribed by this section upon application by the 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:

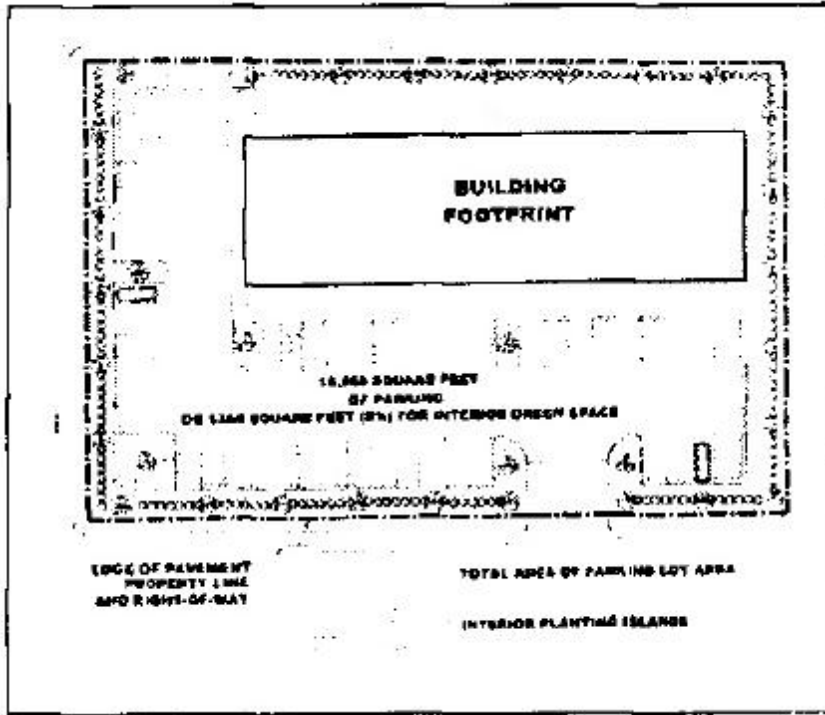
Interior Landscaping Requirements	
Total Area of Parking Lot	Minimum % Dedicated to Interior Landscaping
3,000 - 49,999 sq. ft.	8%
50,000 - 149,000 sq. ft.	10%
150,000 sq. ft.	15%

(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.

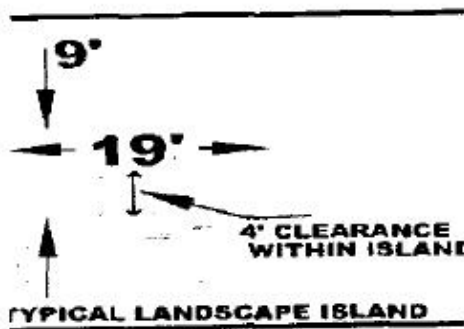
(a) *Included in calculation.* The square footage of all areas within the parking lot's perimeter are counted, including the planting islands required, curbed areas, corner lots, parking spaces and interior driveways and aisles.

(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 (¾" or smaller gravel in a natural color tone), may make up 40% of the groundcover for the interior parking lot landscaping. Weed barrier shall be required.

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

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

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

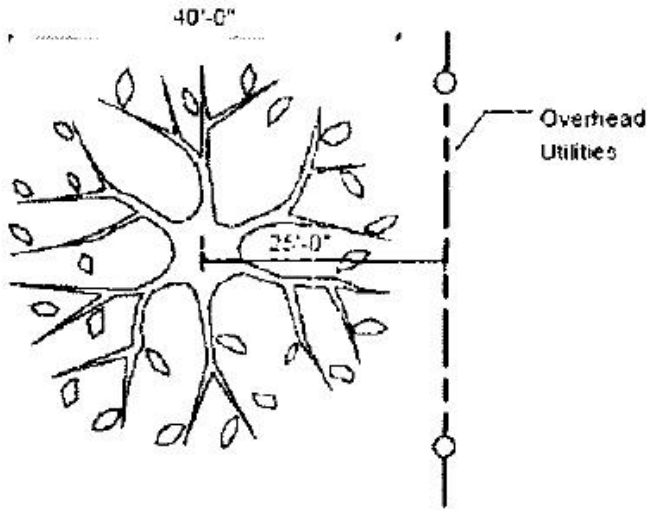
(2) *Overhead utilities.* Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead power lines. In such locations, small ornamental trees are encouraged. Every effort shall be made to avoid placing trees directly under overhead utilities.

(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
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
Common Name	Mature Height (in feet)	Mature Width (in feet)	Growth Rate

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

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
Common Name	Mature Height (in feet)	Growth Rate
Chinese Pistache	25-35	Medium

Dogwood	20-25	Medium
Eastern Redbud	20-30	Medium
Golden Raintree	30-40	Medium/Fast
Japanese Red Maple	15-20	Slow/Medium
Purpleleaf Plum	15-30	Fast
River Birch	40-70	Medium/Fast
Saucer Magnolia	20-30	Medium
Serviceberry	15-20	Medium
Trident Maple	25-35	Medium
Washington Hawthorn	25-30	Medium
Yoshino Cherry	20-40	Fast

§ 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.*

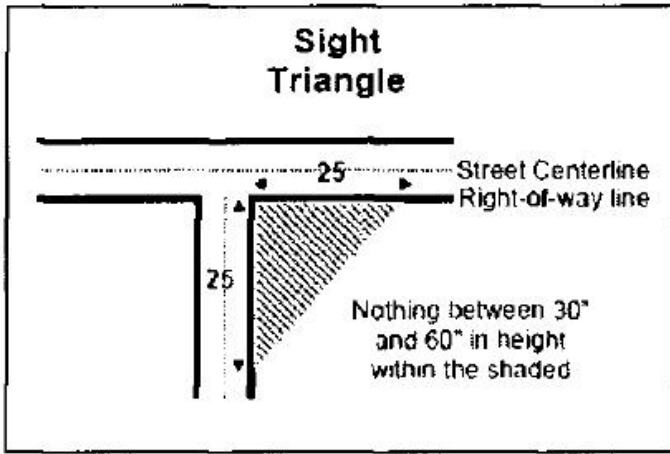
(1) *Private property.* All fences and walls shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences and walls shall not encroach neighboring property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