

ORDINANCE NO. 2015-10- 550

**AN ORDINANCE ADOPTING REVISIONS OF SECTION 153.111, SECTION 153.041 AND SECTION 153.046 OF CHAPTER 153 OF THE MUNICIPAL CODE FOR THE CITY OF TONTITOWN, ARKASAS.**

**WHEREAS**, the City of Tontitown, Arkansas, has adopted a municipal code of ordinances; and

**WHEREAS**, the Tontitown Planning Commission has found that the current Chapter 153 of the Tontitown Municipal Code is in need of certain revisions; and

**WHEREAS**, after due notice as required by law, the Tontitown Planning Commission has heard all persons desiring to be heard regarding the proposed revisions of the Municipal Code; and

**WHEREAS**, after thorough consideration of the comments and views expressed by all interested persons, the Planning Commission has approved revisions to Section 153.111, Section 153.041 and Section 153.046 of Chapter 153 of the Tontitown Municipal Code and has certified these revised sections of Chapter 153 for consideration by the Tontitown City Council.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of Tontitown, Arkansas:

Section 1: That Section 153.111 of Chapter 153 of the Tontitown Municipal Code is hereby repealed.

Section 2: That Section 153.111 of the Tontitown Municipal Code, as revised and attached hereto as Exhibit "A" and made part of this Ordinance, are hereby adopted.

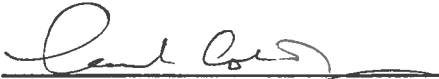
Section 3: That Section 153.041 of Chapter 153 of the Tontitown Municipal Code is hereby repealed.

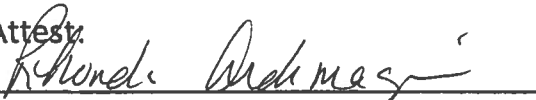
Section 4: That Section 153.041 of the Tontitown Municipal Code, as revised and attached hereto as Exhibit "B" and made part of this Ordinance, are hereby adopted.

Section 5: That Section 153.046 of Chapter 153 of the Tontitown Municipal Code is hereby repealed.

Section 6: That Section 153.046 C" and made part of this Ordinance, are hereby adopted.

**PASSED AND APPROVED** this 6<sup>th</sup> day of October, 2015.

  
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PAUL COLVIN, Jr., Mayor

Attest:  
  
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Rhonda Ardemagni, Recorder

**§ 153.111 SEXUALLY ORIENTED BUSINESS.**

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

(A) *Separation requirement.* No sexually oriented business may be operated within 660 feet, measured in a straight line, without regard to intervening structures or objects from the nearest property line of the sexually oriented business to the nearest property line of the following:

- (1) A church;
- (2) A public or private elementary, middle school, secondary or postsecondary school, preschool or child care facility;
- (3) A boundary of a residential district (R-E, R-1, R-2, R-3, R-MH).
- (4) A public park, family recreation center as defined in A.C. § 5-27-226, bowling alley, or skating rink;
- (5) A hospital;
- (6) Properties listed on the National Register of Historical Places or local historic districts as identified by the Arkansas Historic Preservation Program;
- (7) Any single-family or multiple-family residential use;
- (8) Another sexually oriented businesses;
- (9) Building premises, place or establishment that sells or dispenses any alcoholic beverage, which means but is not limited to distilled spirits wine or beer.

(B) *Subsequent location of certain other uses.* A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of a church, a public or private school, a preschool, a child care facility, a public park, a family recreation center, a bowling alley, a skating rink, residential zoning, a residential use, or an establishment selling or dispensing alcohol.

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.601.22, passed 9-3-13)

## 153.041 CLASSIFICATION OF DISTRICTS.

This chapter classifies and regulates the use of land, buildings, and structures within the city limits as hereinafter set forth. For the purpose of promoting the health, safety, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of land by buildings, the size of yards and open spaces, density of population and location of buildings. Zoning districts shall be designated as follows:

(A) *Agricultural*. A-1, Agricultural.

(B) *Residential*.

(1) R-E, Residential Estate.

(2) R-1, Single Family Residential.

(3) R-2, Duplex and Patio Home Residential.

(4) R-3, Medium Density Residential.

(5) R-4, High Density Residential.

(6) R-MH, Manufactured Home Residential.

(C) *Commercial*.

(1) C-1, Neighborhood Commercial.

(2) C-2, General Commercial.

(D) *Industrial*.

(1) I-1, Light Industrial.

(2) I-2, Heavy Industrial.

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

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

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.401.2, passed 9-3-13)



**153.046 RESIDENTIAL DISTRICTS.**

(A) *General description.* The target goal of the residential districts is to provide sound, safe, economical, and innovative housing solutions for all citizens of the city. Specific goals of residential districts include:

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

(B) *District purposes and schedule of permitted, conditional, and accessory uses.*

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal boarding kennel or animal shelter (including rescue, foster care, and other similar animal shelters)		
Animal – domestic or household	Adult day care	Animal – farm (§ 153.092)
Chicken, hobby (§ 153.100)	Apiculture (§ 153.093)	Building, accessory – nonresidential (§ 153.090)
Child care – residential (4 children) (§ 153.096(A))	Aquarium	Dwelling – accessory (§ 153.091)
Community garden	Cell towers (§ 153.116)	Solar energy system (§ 153.113)
Dwelling – modular	Cemetery or mausoleum	Wind energy system, small (§ 153.115)
Dwelling – single family	Child care – commercial (§ 153.096(C))	
Farm animals for show, breeding, raising, and training		

Fire station	Community center (§ 153.099)	
Greenhouse	Country club	
Library	Educational facility	
Park – mini	Golf course (§ 153.097)	
Park – neighborhood	Group homes for developmentally disabled	
Park – community	Home occupations (§ 153.101)	
Reservoir, wet or dry detention	Lodging – bed and breakfast (§ 153.102)	
Water and wastewater treatment/storage facility	Museum	
Watershed conservation or flood control	Public safety services	
	Temporary uses	
	Real estate sales office	
	Religious facility (§ 153.108)	
	Utility facility	

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal boarding kennel or animal shelter (including rescue, foster care, and other similar animal shelters)		
Animal – domestic or household	Adult day care	Animal – farm (§ 153.092)
Child Care – residential (4 children) (§ 153.096(A))	Apiculture (§ 153.093)	
Community garden	Aquarium	Building, accessory – nonresidential (§ 153.090)
Dwelling – modular	Bed and breakfast	Dwelling – accessory (§ 153.091)

Dwelling – single family	Cell towers (§ 153.116)	Solar energy system (§ 153.113)
Farm animals for show, breeding, raising and training		
Fire station	Cemetery or mausoleum	Wind energy system, small (§ 153.115)
	Chicken, hobby (§ 153.100)	
Library	Child care – commercial (§ 153.096(C))	
Park – mini	Community center (§ 153.099)	
Park – neighborhood	Country club	
Reservoir, wet or dry detention	Educational facility	
Utility facilities	Golf course (§ 153.097)	
Water and wastewater treatment/storage facility	Group homes for developmentally disabled	
Watershed conservation or flood control	Home occupation (§ 153.101)	
	Museum	
	Public safety services	
	Real estate sales office	
	Religious facilities (§ 153.108)	
	Temporary uses	
	Utility facility	

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

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

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Adult day care		
Animal boarding kennel or animal shelter (including rescue, foster care, and other similar animal shelters)		
Animal – domestic or household		Building, accessory – nonresidential (§ 153.090)
Child Care – residential (4 children) (§ 153.096(A))	Apiculture (§ 153.093)	Chicken, hobby (§ 153.100)
Community garden	Aquarium	Dwelling – accessory (§ 153.091)
Dwelling – condominium	Cemetery or mausoleum	Solar energy system (§ 153.113)
Dwelling – modular	Child care – commercial (§ 153.096(C))	Wind energy system, small (§ 153.115)
Dwelling – single family	Community center (§ 153.099)	
Dwelling – townhouse or rowhouse	Country club	
Dwelling – two-family	Educational facility	
Farm animals for show, breeding, raising, and training (where a maximum of one single family dwelling exists on parcel)		
Fire station	Golf course (§ 153.097)	
Library	Group homes, developmentally disabled	
Park – mini	Home occupation (§ 153.101)	
Park – neighborhood	Lodging - Bed and breakfast	
Reservoir, wet or dry detention	Museum	
Utility facilities	Public safety services	
Water and Wastewater treatment/storage facilities	Real estate sales office	
Watershed conservation and flood control facilities	Religious facilities (§ 153.108)	
	Temporary uses	
	Utility facility	



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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal boarding kennel or animal shelter (including rescue, foster care, and other similar animal shelters)		
Animal – domestic or household	Adult day care	Building, accessory – nonresidential (§ 153.090)
Child care – residential (4 children) (§ 153.096(A))	Apiculture (§ 153.093)	Dwelling – accessory (§ 153.091)
Community garden	Aquarium	Solar energy system (§ 153.113)
Dwelling – condominium	Cell towers (§ 153.116)	Wind energy system, small (§ 153.115)
Dwelling – modular	Cemetery or mausoleum	
Dwelling – multi-family	Child care – commercial (§ 153.096(C))	
Dwelling – single family	Community center (§ 153.099)	
Dwelling – townhouse or rowhouse	Country club	
Dwelling – two-family	Educational facility	
Farm animals for show, breeding, raising, and training (where a maximum of one single family dwelling exists on parcel)		
Library	Golf course (§ 153.097)	
Park – mini	Home occupation (§ 153.101)	
Park – neighborhood	Lodging - Bed and breakfast	
Residential facility – assisted living	Museum	
Residential facility – temporary shelter	Public safety services	
	Religious facilities (§ 153.108)	

	Temporary uses	
	Utility facility	

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal – domestic or household	Adult day care	Building, accessory – nonresidential (§ <u>153.090</u> )
Child Care – residential (4 children) (§ <u>153.096(A)</u> )	Apiculture (§ <u>153.093</u> )	Dwelling – accessory (§ <u>153.091</u> )
Community garden	Aquarium	Solar energy system (§ <u>153.113</u> )
Dwelling – condominium	Cell towers (§ <u>153.116</u> )	Wind energy system, small (§ <u>153.115</u> )
Dwelling – modular	Cemetery or mausoleum	
Dwelling – multi-family	Child care – commercial (§ <u>153.096(C)</u> )	
Dwelling – single family	Community center (§ <u>153.099</u> )	
Dwelling – townhouse or rowhouse	Country club	
Dwelling – two-family	Educational facility	
Library	Golf course (§ <u>153.097</u> )	

Park – mini	Home occupation (§ 153.101)	
Residential facility – assisted living	Lodging - Bed and breakfast	
Residential facility – temporary shelter	Museum	
	Public safety services	
	Religious facilities (§ 153.108)	
	Temporary uses	
	Utility facility	

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal – domestic or household	Adult day care	Dwelling – accessory (§ 153.091)
Child Care – residential (4 children) (§ 153.096(A))	Apiculture (§ 153.093)	
Community garden	Aquarium	
Dwelling – manufactured	Cemetery or mausoleum	
Dwelling – modular	Child care – commercial (§ 153.096(C))	
Dwelling – single family	Community center (§ 153.099)	
Fire station	Country club	
Library	Educational facility	
Manufactured home park	Golf course (§ 153.097)	
Park – community	Group homes for developmentally disabled	
Park – mini	Home occupation (§ 153.101)	
Reservoir, wet or dry detention	Museum	
Residential facility – assisted living	Public safety services	
Solid waste disposal		

Utility facilities	Religious facilities (§ 153.108)	
Water and Wastewater treatment/storage facilities		
Watershed conservation or flood control facilities		

(C) *Residential bulk and area requirements.*

(1) *Density.*

<b>Zoning District</b>	<b>Maximum Density Permitted</b>
R-E	1 dwelling unit per 2 acres
R-1	1 dwelling units per acre
R-2	2 dwelling units per acre
R-3	3 dwelling units per acre
R-4	16 dwelling units per acre
R-MH	6 dwelling units per acre

(2) *Lot and area requirements.*

(a) *Street frontage.* Each lot in R-1 and R-2 zoning districts shall have a minimum street, or dedicated access easement frontage equal 50 feet, except for lots fronting on cul-de-sac turnarounds and on curving street frontages, which must have no less than 35 feet of street frontage with the two side lot lines intersecting the street diverging until they are separated by the minimum required lot width at the building line. Each lot in the remaining zoning districts shall have a minimum of 35 feet of street, or dedicated access easement frontage.

(b) *Depth.* Each lot, not including the R3 zoning district, shall be a minimum of 100 feet in depth at its shallowest point with the depth measured at right angles or radial to the street right-of-way line.

(c) *Corner lots.* Minimum width for corner lots shall be 75 feet at the building line. The minimum width for corner lots in a manufactured home subdivision shall be 60 feet at the building line.

(e) *Standards.*

<b>Residential Bulk and Area Standards</b>						
<b>District</b>	<b>Structure Type</b>	<b>Lot Area (sq. ft.)</b>	<b>Lot width (ft.)</b>	<b>Max. Coverage</b>		
				<b>Interior Lot</b>	<b>Exterior/ Corner Lot</b>	
R-E	Single-family		87,120 (2 acres)	200	10%	10%
R-1	Single-family		43,560	120	40%	45%
R-2	Single-family & duplex		21,780	100	50%	55%
R-3	Single-family & duplex		9,600	80	40%	45%
R-4	All		10,000	100	50%	55%
R-MH	Manufactured home lots		10,000	100	30%	35%

(3) *Minimum setback requirements.*

(a) *Garages.* The minimum front setback for front-loading garages shall be 30 feet from the front property line. The minimum front setback for side- or rear-loading garages shall be 20 feet from the front property line. The minimum garage setbacks apply to attached and detached garages.

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

(c) *Standards (in feet).*

<b>District</b>	<b>Structure Type</b>	<b>Front</b>	<b>Side</b>			<b>Rear</b>
			<b>Interior</b>	<b>Exterior</b>		
R-E	Single-family		30	30	30	30
R-1	Single-family		20	7	20	25
R-2	All		20	7	20	25
R-3	All		20	10	20	25
R-4	All		20	10	20	25
R-MH	Manufactured home lots		20	10	20	25
	Manufactured home park		25	15	25	25

(4) *Height requirements. Standards.* The maximum height permitted in all residential districts is 40 feet.

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

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

(5) *Maximum building coverage and maximum impervious area (including accessory buildings).*

<i>District</i>	<i>Maximum Building Coverage</i>	<i>Maximum Impervious Area</i>
R-E	50%	70%
R-1	50%	70%
R-2	50%	70%
R-3	50%	70%
R-4	50%	70%
R-MH	50%	70%

(D) *Residential development criteria.* Unless otherwise specifically provided in this section, the following development criteria shall apply:

(1) *Replacement of existing single-wide manufactured homes in residential districts.* The replacement of existing single-wide manufactured homes in residential districts may be allowed subject to the granting of a conditional use permit if the following requirements are met:

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

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

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

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

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

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.401.7, passed 9-3-13; Am. Ord. 2014-12-489, passed 12-2-14; Am. Ord. 2015-04-523, passed 4-7-15)