

ORDINANCE NO. 2017-03-623

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 153.007 DEFINITIONS OF TERMS AND USES, SECTION 153.041 CLASSIFICATIONS OF DISTRICTS AND SECTION 153.046 RESIDENTIAL DISTRICTS OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY

WHEREAS, on or about December 2, 2014, the City Council of Tontitown adopted Ordinance No. 2014-12-489 to zoning regulations within the city and said Ordinance No. 2014-12-489, as it has been amended from time to time and as was thereafter codified within in Chapter 153: ZONING REGULATIONS in the Tontitown Municipal Code; and

WHEREAS, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend Section 153.007 DEFINITIONS OF TERMS AND USES, Section 153.041 CLASSIFICATIONS OF DISTRICTS and Section 153.046 RESIDENTIAL DISTRICTS of the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.007 DEFINITIONS OF TERMS AND USES, Section 153.041 CLASSIFICATIONS OF DISTRICTS and Section 153.046 RESIDENTIAL DISTRICTS of Chapter 153: ZONING REGULATIONS and recommends to the City Council that these revisions be approved; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 153.007 DEFINITIONS OF TERMS AND USES, Section 153.041 CLASSIFICATIONS OF DISTRICTS and Section 153.046 RESIDENTIAL DISTRICTS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be revised and restated in its entirety as incorporated herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Tontitown, as follows:

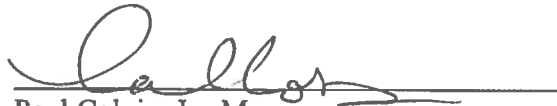
Section 1. Section 153.007 DEFINITIONS OF TERMS AND USES, Section 153.041 CLASSIFICATIONS OF DISTRICTS and Section 153.046 RESIDENTIAL DISTRICTS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

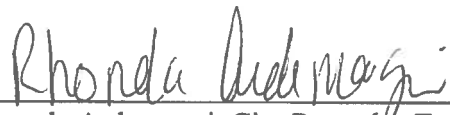
Section 3. Declaration of Emergency. It is hereby found and determined that Section 153.007 DEFINITIONS OF TERMS AND USES, Section 153.041 CLASSIFICATIONS OF DISTRICTS and Section 153.046 RESIDENTIAL DISTRICTS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety in clarify and amend zoning regulations within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this Ten day of March, 2017.

APPROVED:


Paul Colvin, Jr., Mayor

ATTEST:


Rhonda Ardemagni, City Recorder-Treasurer

CHAPTER 153: ZONING REGULATIONS

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§ 153.007 DEFINITIONS OF TERMS AND USES.

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

NOTE: ** ALL OTHER 40 PAGES OF DEFINITIONS OF TERMS AND USES NOT SHOWN AS NO CHANGES*******

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

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

DWELLING, MANUFACTURED. A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5153.401 et seq., as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

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

DWELLING, MULTI-FAMILY. A residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each. This use shall include apartment houses, and multiple family dwellings. This definition shall not include “dwelling, townhouse or row house” or “dwelling, condominium” which are separately defined.

DWELLING, SINGLE-FAMILY. A detached residence primarily designed for or occupied by one family only.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two families only with separate housekeeping and cooking facilities for each. This definition shall include a duplex and shall not include “dwelling, accessory” which is separately defined.

DWELLING, TOWNHOUSE or ROW HOUSE. One of a group of no less than three, nor more than 12, attached dwelling units, each dwelling unit located on a separate lot.

DWELLING UNIT. A room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping and cooking.

§ 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~~.
R-2 , Low Density 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; Am. Ord. 2015-10-550, passed 10-6-15)

§ 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.~~

(3) **R-2 Low Density 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~~ **Single Family-Low Density Residential** 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.~~ **Low density, single family residential.** ~~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 low** 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 (§ 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	
Library	Golf course (§ 153.097)	
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	Religious facilities (§ 153.108)	
Utility facilities		
Water and Wastewater treatment/storage facilities		
Watershed conservation or flood control facilities		

(C) *Residential bulk and area requirements.*

(1) *Density.*

<i>Zoning District</i>	<i>Maximum Density Permitted</i>
R-E	1 dwelling unit per 2 acres
R-1	1 dwelling unit 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.

(d) (Reserved)

(e) *Standards.*

<i>Residential Bulk and Area Standards</i>						
<i>District</i>	<i>Structure Type</i>	<i>Lot Area (sq. ft.)</i>	<i>Lot width (ft.)</i>	<i>Max. Coverage</i>		
				<i>Interior Lot</i>	<i>Exterior/ Corner Lot</i>	
R-E	Single-family	87,120 (2 acres)	200	10%	10%	
R-1	Single-family	43,560 (1 acre)	120	40%	45%	
R-2	Single-family & duplex	21,780 (1/2 acre)	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).*

<i>District</i>	<i>Structure Type</i>	<i>Front</i>	<i>Side</i>		<i>Rear</i>
			<i>Interior</i>	<i>Exterior</i>	
R-E	Single-family	30	30	30	30
R-1	Single-family	20	7 20	20	25
R-2	All	20	7 10	20	25
R-3	All	20	10 7	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; Am. Ord. 2015-10-550, passed 10-6-15)