

ORDINANCE NO. 2017-05-636

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING CHAPTER 152: DEVELOPMENT AND SUBDIVISION REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ORDER TO CLARIFY DEVELOPMENT AND SUBDIVISION REGULATIONS FOR THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY

WHEREAS, on or about December 2, 2014, the City Council of Tontitown adopted Ordinance No. 2014-12-488 to provide development and subdivision regulations within the city and said Ordinance No. 2014-12-488, as it has been amended from time to time and as was thereafter codified within in Chapter 152: DEVELOPMENT AND SUBDIVISION 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 Ordinance No. 2014-12-488 and the Tontitown Municipal Code Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS to better provide for the clarification of terms and uses for development and subdivision regulations; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS and recommends to the City Council that the revisions be approved; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS of the Tontitown Municipal Code should be revised as provided herein below.

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

Section 1. Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS, of the Tontitown Municipal Code is hereby revised, as to delete the following Section 152.145 SIDEWALKS, Section 152.148 ACCESS REQUIREMENTS, Sections 152.190-152.207 LANDSCAPING, and Sections 152.215-152.226 FLOOD DAMAGE.

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 Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS, of the Tontitown Municipal Code should be immediately amended in order to provide clarification of terms and uses for development and subdivision 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 2nd day of May, 2017.

APPROVED:



Paul Colvin, Jr., Mayor

ATTEST:



Rhonda Ardemagni, City Recorder-Treasurer

CHAPTER 152 : DEVELOPMENT AND SUBDIVISION REGULATIONS

Section

General Provisions

- [152.001](#) Title
- [152.002](#) Authority
- [152.003](#) Purpose
- [152.004](#) Jurisdiction
- [152.005](#) Planning area map
- [152.006](#) Applicability
- [152.007](#) Exemptions
- [152.008](#) Approval required
- [152.009](#) Amendments
- [152.010](#) Conflicting regulations
- [152.011](#) Effective date
- [152.012](#) Severability
- [152.013](#) Abrogation and greater restriction
- [152.014](#) Non-liability
- [152.015](#) Definitions

Administration and Enforcement

- [152.025](#) Administration
- [152.026](#) Waivers
- [152.027](#) Vacation of plats
- [152.028](#) Vacation of street right-of-way, easements or alleys
- [152.029](#) Appeals
- [152.030](#) Assurance of performance
- [152.031](#) Maintenance guarantee
- [152.032](#) Guarantees

[152.033](#) Off-site performance guarantee

Preliminary Plats

[152.045](#) Applicability

[152.046](#) Pre-application conference

[152.047](#) Application for approval

[152.048](#) Review and approval

[152.049](#) Review criteria

[152.050](#) Authorization to proceed

[152.051](#) Expiration of preliminary plat approval

Final Plats

[152.060](#) Applicability

[152.061](#) Application for final plat

[152.062](#) Prior to Planning Commission

[152.063](#) Review and approval

[152.064](#) Inspections

[152.065](#) Recording

[152.066](#) Application for building permit

[152.067](#) Criteria for substantial completion (non- bondable items)

[152.068](#) Criteria for guarantees (bondable items)

Incidental Subdivisions

[152.080](#) Applicability

[152.081](#) Application for approval

[152.082](#) Review and approval

[152.083](#) Recording

[152.084](#) Review criteria

Large Scale Developments

- [152.095](#) Applicability
- [152.096](#) Pre-application conference
- [152.097](#) Application for approval
- [152.098](#) Review and approval
- [152.099](#) Review criteria
- [152.100](#) Adjustment and alterations
- [152.101](#) Expiration and extension of approval
- [152.102](#) Appeals
- [152.103](#) Application for building permit
- [152.104](#) Final inspection

Plat and Plan Requirements

- [152.115](#) Items to be shown on plat or included in a plan
- [152.116](#) Certificates
- [152.117](#) Waiver

Minimum Survey Standards

- [152.125](#) General requirements
- [152.126](#) Horizontal control standards
- [152.127](#) Vertical control standards
- [152.128](#) Monumentation

Design Standards

- [152.140](#) General provisions
- [152.141](#) Utilities
- [152.142](#) Blocks
- [152.143](#) Lots
- [152.144](#) Streets
- [152.145](#) Reserved for future use
- [152.146](#) Grading and drainage
- [152.147](#) Open space
- [152.148](#) Reserved for future use
- [152.149](#) Driveway design
- [152.150](#) Outdoor lighting
- [152.151](#) Design standards for large scale developments
- [152.152](#) Aesthetics for wireless communication facilities (WCF)

Improvements

- [152.160](#) General provisions
- [152.161](#) Determining necessity for improvements
- [152.162](#) Fee-in-lieu for delayed improvements
- [152.163](#) Waivers
- [152.164](#) Off-site improvements to state highways and highways maintained by the State Highway and Transportation Department

Tree Preservation and Protection

- [152.175](#) Purpose
- [152.176](#) Objectives
- [152.177](#) Administration and appeals
- [152.178](#) Tree planting, maintenance and removal
- [152.179](#) Stop work order

Addressing

- [152.235](#) Purpose
 - [152.236](#) Street address map
 - [152.237](#) Centerlines
 - [152.238](#) Street names
 - [152.239](#) Address numbers
 - [152.240](#) Signs, numbers and system maintenance
-
- [152.998](#) Enforcement
 - [152.999](#) Penalty

Cross-reference:

Flood damage prevention in general, see [Ch. 151](#)

Editor's Note:

Development and Subdivision Regulations were adopted by Ord. 2014-12-488 on December 2, 2014.

GENERAL PROVISIONS

📖 § 152.001 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).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

📖 § 152.002 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 A.C. §§ 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.02, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.003 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 §§ [152.125](#) through [152.128](#).

(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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.03, passed 9-3-13)

§ 152.004 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 A.C. §§ 14-56-401 through 426.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.04, passed 9-3-13)

§ 152.005 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 A.C. §§ 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-08-434, passed 8-6-13; Am. Ord. 2013-09-440, § 152.100.05, passed 9-3-13)

§ 152.006 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.06, passed 9-3-13)

§ 152.007 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 (A.C. §§ 18-13-101 *et seq.*).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.07, passed 9-3-13)

§ 152.008 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.08, passed 9-3-13)

§ 152.009 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.09, passed 9-3-13)

§ 152.010 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.10, passed 9-3-13)

§ 152.011 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.11, passed 9-3-13)

§ 152.012 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, §§ 152.100.12, 152.1200.07, 152.1400.12, passed 9-3-13)

§ 152.013 ABROGATION AND GREATER RESTRICTIONS.

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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.13, passed 9-3-13)

§ 152.014 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.100.14, passed 9-3-13)

§ 152.015 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.

BILL OF ASSURANCE. A private agreement attached to a plat which establishes property use and development rules specific to the properties in the particular subdivision and which may be binding upon subsequent owners of the property.

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

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**.

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

CITY STAFF. Employees and designees 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.

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.

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.

DRIVEWAY. An entrance to one or more properties created by the owner(s) thereof for the exclusive use and enjoyment of such properties and under the total control of such owner(s).

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.

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

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 or her designee, responsible for enforcement of the adopted Fire Prevention Code.

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.

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.

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

INTERNATIONAL FIRE CODE. This title is used synonymously with the **ARKANSAS FIRE PREVENTION CODE.**

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 parcel or 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. 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. The **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-YEAR (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. 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. 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.

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

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

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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.200.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

ADMINISTRATION AND ENFORCEMENT

§ 152.025 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.01, passed 9-3-13)

§ 152.026 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.04, passed 9-3-13)

§ 152.027 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.05, passed 9-3-13)

§ 152.028 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.06, passed 9-3-13)

§ 152.029 APPEALS.

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

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.07, passed 9-3-13)

§ 152.030 ASSURANCE OF PERFORMANCE.

(A) When the owner/developer requests final plat approval under the requirements contained in § [152.060](#)(B), 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.08, passed 9-3-13)

§ 152.031 MAINTENANCE GUARANTEE.

No less than three (3) 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 152.031 must be followed:

(A) 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:

(1) 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.

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

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

(4) It must run for no less than three (3) years.

(5) At the end of three (3) years, 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.

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

(B) Performance bond.

(1) 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.

(2) Such maintenance bond shall meet all the conditions in certificate of completion of improvements listed in division (A) above.

(C) Cash deposit.

(1) 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 three (3) years from submittal, whichever comes first.

(2) 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 three (3) years to assure proper maintenance. Any amount above this sum shall be returned to the provider of the cashier's check.

(3) At the end of three (3) years, 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.

(D) Irrevocable letter of credit.

(1) 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.

(2) Such maintenance letter of credit shall meet all conditions in certificate of completion of improvements, division (A) above.

(3) 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, 152.300.09, passed 9-3-13)

Am. Ord 2017-03-621

§ 152.032 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.10, passed 9-3-13)

§ 152.033 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.

(Ord. 2013-04-417, passed 4-2-1

3; Am. Ord. 2013-09-440, § 152.300.11, passed 9-3-13)

PRELIMINARY PLATS

§ 152.045 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 § [152.080\(B\)](#).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.01, passed 9-3-13)

§ 152.046 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 in [Chapter 155](#), its purpose being to acquaint the subdivider with plans and policies in effect that may be significant to his or her 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.02, passed 9-3-13)

§ 152.047 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 §§ [152.115](#) through [152.117](#). The preliminary plat shall be drawn clearly and legibly at a scale not smaller than one inch equals 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.03, passed 9-3-13)

§ 152.048 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 disapproved preliminary plat may be resubmitted. The plat shall be submitted for review as outlined in this regulation for an original preliminary plat submission.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.04, passed 9-3-13)

§ 152.049 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 §§ [152.140](#) through [152.152](#). (Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.05, passed 9-3-13)

§ 152.050 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.06, passed 9-3-13)

§ 152.051 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.400.07, passed 9-3-13)

FINAL PLATS

§ 152.060 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 § [152.067](#), and owner/developer guarantees completion of the remaining items, as provided for in § [152.068](#), in accordance with § [152.030](#), the final plat may be submitted for final approval.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.01, passed 9-3-13)

§ 152.061 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 §§ [152.115](#) through [152.117](#), 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.02, passed 9-3-13)

§ 152.062 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 § [152.031](#) 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 § [152.030](#) no later than 12:00 p.m. the Friday before the Planning Commission meeting at which the final plat will be reviewed.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.03, passed 9-3-13)

§ 152.063 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.04, passed 9-3-13)

§ 152.064 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 or her 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.05, passed 9-3-13)

§ 152.065 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.06, passed 9-3-13)

§ 152.066 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.07, passed 9-3-13)

§ 152.067 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.
- (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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.08, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.068 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 § [152.030](#) 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).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.500.09, passed 9-3-13)

INCIDENTAL SUBDIVISIONS

§ 152.080 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. A property cannot be divided more than once in a 12-month period.

(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. A property cannot be divided more than once in a 12-month period.

(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 scriber 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.081 APPLICATION FOR APPROVAL.

(A) The application shall be submitted to the Planning Department for administrative review and approval, 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 §§ [152.115](#) through [152.117](#).

(5) *Deed.* Copy of land deed showing ownership of property.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.02, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.082 REVIEW AND APPROVAL.

(A) *Review.*

(1) *Applicability.* The Planning Department and City Engineer shall review minor subdivisions, property line adjustments and correction plats. All applications for waivers shall require approval of the Planning Commission.

(2) *Action.* The Planning Department shall approve with conditions, or disapprove said plat. After formal approval by the Department, 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 or her 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 the letter shall be sent to the Chairman of the Planning Commission. If the developer objects to such an extension, the 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 review any incidental subdivision after administrative review as set forth in division (A) within 120 days of receipt thereof, otherwise the incidental subdivision shall be deemed to have been approved. Approval of the incidental subdivision by the Planning Department 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.03, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.083 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.04, passed 9-3-13)

 **§ 152.084 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.05, passed 9-3-13)

LARGE SCALE DEVELOPMENTS

§ 152.095 APPLICABILITY.

(A) This section is applicable to all Commercial, Industrial and Multi-Family Residential construction within the city.

(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) (1) Examples of facilities or construction covered, but not limited to:

(2) New commercial, industrial, or civic development and building construction.

(E) (1) Additions or improvements to existing buildings or developments that increase the overall square footage of the current structure(s) or development by more than 50%, not to exceed 3,999 square feet.

(2) The revision of land use that results in the need to access to public streets or utilities.

(F) 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 subchapter. No permanent connection to utilities shall be allowed until the Chief Building Official has certified compliance with the approved development plan.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.096 PRE-APPLICATION CONFERENCE.

(A) *Purpose.* When the owner of a tract of land proposes its development as described in § [152.095](#), the applicant is urged to discuss informally the intent of this development 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 or her 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.02, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.097 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 §§ [152.115](#) through [152.117](#).

(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 division (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 §§ [152.115](#) through [152.117](#).

(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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.03, passed 9-3-13)

§ 152.098 REVIEW AND APPROVAL.

(A) *Administrative review.*

(1) *Applicability.* The City Engineer shall administratively review:

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

(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 the 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 or she 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 the letter shall be sent the Chairman of the Tontitown Planning Commission. If the developer objects to such an extension, the 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.04, passed 9-3-13)

§ 152.099 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 subchapter.

(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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.05, passed 9-3-13)

§ 152.100 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.06, passed 9-3-13)

§ 152.101 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.07, passed 9-3-13)

§ 152.102 APPEALS.

Planning Commission determination. Any decision of Planning Commission may be appealed pursuant to the City Council.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.08, passed 9-3-13)

§ 152.103 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 § [152.031](#) and a warranty in accordance with the requirements in § [152.030](#).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.09, passed 9-3-13)

§ 152.104 FINAL INSPECTION.

(A) *Purpose.* The purpose of the large scale development final inspection (development final) is to ensure 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 pits or boxes and setters in place and operational on grade.
- (c) Tracer wires in place and tested.
- (d) Draft of record drawings submitted.

- (e) All valves operational adjusted to finish grade with concrete pad.
- (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 (C) 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.700.10, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

PLAT AND PLAN REQUIREMENTS

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

1. Refer to application and worksheet.
2. A notice shall be placed on the preliminary plat stating “Preliminary Plat for Inspection Purposes Only. Not for Record Purposes.”

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.800.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.116 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: _____

(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

State of Arkansas Registration No. _____

(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.

This approval does not guarantee any of the following:

1. Delivery of public water or sewer service
2. Delivery of any other utility service.
3. Improvements to any affected City Streets or County Roads.

4. Approval from the Arkansas Department of Health.
5. Access to the property via easements or otherwise either known or unknown.

Date of Execution: _____

Signed: _____

Chairman, Tontitown Planning Commission

Signed: _____

Mayor, City of Tontitown

Signed: _____

Recorder/Treasurer, City of Tontitown

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.800.02, passed 9-3-13; Am. Ord. 2016-09-597, passed 9-7-16)

§ 152.117 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.800.03, passed 9-3-13)

MINIMUM SURVEY STANDARDS

§ 152.125 GENERAL REQUIREMENTS.

This subchapter is provided to establish minimum standards for surveying work performed for the development of subdivisions within the jurisdiction of the Planning Commission. This subchapter 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.

(Ord. 2006-12-280, passed 12-5-06; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.900.01, passed 9-3-13)

§ 152.126 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.

(Ord. 2006-12-280, passed 12-5-06; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.900.02, passed 9-3-13)

§ 152.127 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.

(Ord. 2006-12-280, passed 12-5-06; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.900.03, passed 9-3-13)

§ 152.128 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 § [152.143](#)(A) shall be monumented according to the specifications outlined

with the “Arkansas Minimum Standards for Property Surveys and Plats” and any amendment made thereto.

(Ord. 2006-12-280, passed 12-5-06; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.900.04, passed 9-3-13)

DESIGN STANDARDS

§ 152.140 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 residential 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, a dedicated easement, 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 PRDs 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.1, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.141 UTILITIES.

(A) *Coordination.* The subdivider 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 the 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 § [152.080](#).

(D) *Structures.* No structures shall be located within a utility easement.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.2, passed 9-3-13)

§ 152.142 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 400 feet in length or more than 1,500 feet in length shall be prohibited. Blocks of over 1,000 feet in length may require a public crosswalk within a dedicated easement of not less than 15 feet in width including a paved crosswalk not less than five 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.3, passed 9-3-13)

§ 152.143 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 §§ [153.040](#) through [153.050](#).

(E) *Floodways.* A minimum building setback line shall be established on the plat not less than 25 feet from any floodway boundary. This shall not affect plats that have been initiated prior to the passage of this chapter 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 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.4, passed 9-3-13)

 **§ 152.144 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 § [152.026](#). The waiver shall be reviewed based on the following criteria:

1. The development is adjacent to developed land that does not provide locations for connection of the street system.

2. The development is adjacent to topography with slopes greater than 17%.

3. 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-de-sacs unless specifically exempted by the City Engineer 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 100 feet of intersections according to AASHTO geometric design guidelines for highways and city streets.

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

(H) *Residential street lights.*

(1) *Public streets.* Developers of all new residential subdivisions with public streets shall select either (a) the standard street light option, or (b) an upgraded street light option.

(a) *Standard street light option.*

1. *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.

2. *Developer responsibility.* The developer shall share the cost of the standard fixture with the City of Tontitown. The developer shall provide the one and one-half inch conduit raceway, surface mount foundation and anchor system, as specified by the servicing electric provider.

(b) *Upgraded street light option.*

1. *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 division (H)(1)(a)1., or upgraded street light fixture as described in division (H)(1)(b)1. 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 2,700 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 chapter may continue. If the non-standard street light is damaged, two options are available:

(a) *Repair.* To use the same fixture, the homeowners' association shall provide the replacement parts and labor for cost of repair.

(b) *Replacement.* When a property owners' 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 owners' 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 (a) the standard commercial street light option, or (b) if the subdivision is served by underground electric utilities, the upgraded commercial street light option.

(a) *Standard commercial street light option.*

1. *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.*

1. *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 (i) 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.

2. *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 one and one-half inch 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 feet.

(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 feet. 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 feet.

(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 three-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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.5, passed 9-3-13)

📖 § 152.146 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 owners' 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- foot 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.*

1. *Utilities.* Public and private utility organizations may obtain a one-time 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.

2. *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 § [152.015](#), of more than four 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 (1), Exemptions below.

(2) *Exemptions.* Retaining walls that meet the following requirements shall be exempt from these requirements:

(a) Retaining walls less than four 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:

1. Location of all property lines;

2. Location of all existing and proposed structures;

3. Location of existing retaining walls on or adjacent to the property that is to remain in place, if applicable;

4. Portions of existing retaining wall that will be replaced, if applicable;
5. Location of new retaining wall;
6. Location of utilities and utility easements; drainage easements and drainageways;
7. Construction details to include, but not limited to, dimensions, crosssection, and footing design;
8. Elevations above and below the retaining wall;
9. A note indicating the height of the proposed retaining wall and the material;
10. Engineer's certification, if required; and
11. 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.

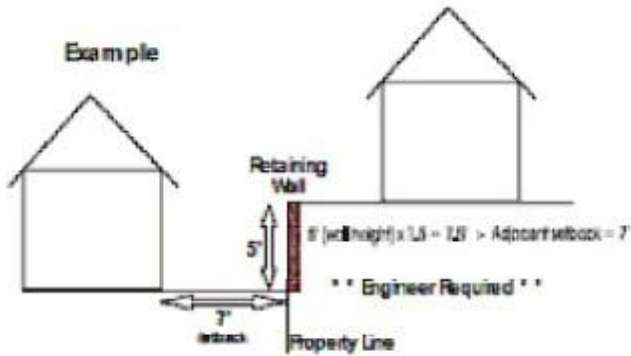
(d) *Inspection required.* The applicant shall contact Building Inspections to request a final inspection upon completion of the retaining walls. If the building inspector determines that the retaining wall is constructed in accordance with the requirements of this chapter and the approved retaining 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 feet in height where one and one-half times the height of the wall is either:

1. Greater than or equal to the building setback of an adjacent lot, or
2. Such distance encroaches on any structure.

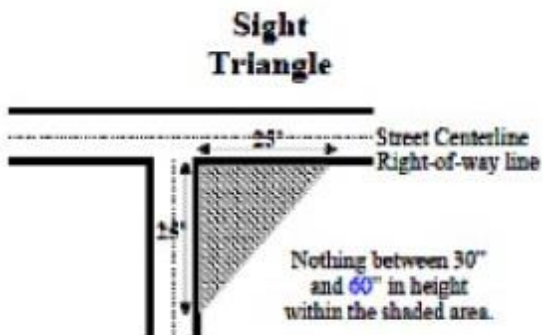
Height of wall X 1.5 \geq adjacent setback



(b) Any retaining walls over four 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 inches constructed near street intersections shall not be located in the “sight distance triangle,” shown below, in order to provide a reasonable degree of traffic visibility.



(7) *Easements.*

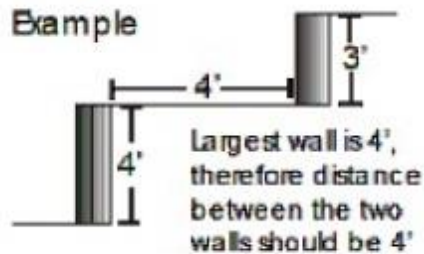
(a) *Utility easements.* Retaining walls shall not restrict access to utilities. Retaining walls proposed in a utility easement shall be approved on a case-by-case basis.

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

(c) *Access easement.* Retaining walls shall not be constructed over a public or private access easement.

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

Height of largest wall x 1.0 = Distance between walls



(F) *Slopes.* Slopes of 1:1 or steeper shall be required to comply with the retaining wall regulations above.

(G) *Construction and installation.* The construction and installation of concrete segmental retaining wall systems shall comply with Concrete Segmental Retaining Walls System manufacturer's specifications.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.7, passed 9-3-13)

§ 152.147 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 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 §§ [152.190](#) through [152.207](#) 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 §§ [152.200](#) and § [152.203](#).

(D) *Impervious surfaces.* Planning Commission approval is required if more than 10% 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.8, passed 9-3-13)

§ 152.149 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 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 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%.

<i>Maximum Drive Grades</i>	
<i>Roadway</i>	<i>Driveway Grade</i>
Principal Arterial	5 %

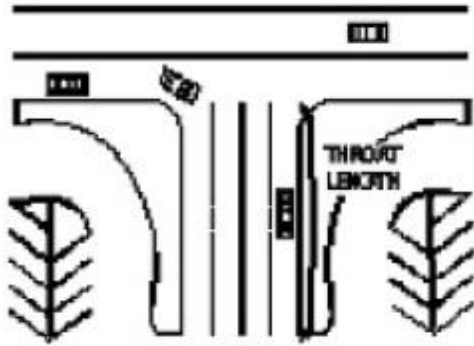
Minor Arterial	6 %
Collector	7 %
Local	10 %

(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 inches in height.

(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 principal 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.

<i>Generally Adequate Driveway Throat Lengths</i>	
<i>Development Type</i>	<i>Driveway Throat Length</i>
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.*

(1) *Minimum distance of driveway and parking from street and into property.*

(a) *Driveway approach.* Driveways shall be paved from the edge of road with concrete, brick or stone pavers, or other solid surface to the existing right-of-way or the right-of-way as set forth in the Tontitown Master Street Plan. This requirement does not apply for approaches from unpaved roads.

(b) *Driveways beyond right-of-way.* Driveways beyond right-of-way may be paved or unpaved.

(2) *Unpaved driveway maintenance requirements.* If an unpaved driveway is not adequately maintained 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.

(3) *Driveway grading and drainage.* The driveway shall be graded in such a way to dispose of surface water.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.10, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.150 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 chapter.

(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 [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 division (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 division (E)(1) above, however, the use of cutoff fixtures is encouraged. The shielding requirement in division (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 chapter 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.11, passed 9-3-13)

📖 § 152.151 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% of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, textured concrete block, stucco, EIFS, wood, synthetic stone 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 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 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 of the architectural elements from the list below, in addition to regulations regarding the design of entrances above. Buildings over 50,000 square feet shall include a minimum of five of the referenced architectural elements. Buildings over 100,000 square feet shall include a minimum of six 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.13, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.152 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 chapter 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 chapter encourages creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses. Based on this, the color and design of towers and antennas shall meet the following requirements:

(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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1000.14, passed 9-3-13)

IMPROVEMENTS

§ 152.160 GENERAL PROVISIONS.

(A) *Generally.* The subdivider shall be required to install improvements, where the need for such improvements is created in whole or in part by the proposed subdivision, in accordance with § 152.161. For purposes of this section, an ***OFF-SITE 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 improvements shall be installed according to city standards; provided 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 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 improvements and the portion of the cost of any needed improvements which the subdivider shall be required to bear; provided, that portion of the cost of 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 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1100.01, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.161 DETERMINING NECESSITY FOR 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 or her proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The subdivider's proportionate share of the costs shall be determined by the Planning Commission in accordance with the provisions of § [152.160](#).

(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 or her proportionate share of the cost of improving the street or road to existing city standards. The Planning Commission shall determine the subdivider's proportionate share of the costs in accordance with the provisions of § [152.160](#).

(C) *Drainage.* 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1100.02, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.162 FEE IN-LIEU FOR DELAYED IMPROVEMENTS.

If the Planning Commission determines that a needed 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 § [152.160](#) above to be the developer's proportionate share of the cost of the improvements as of the date of final plat approval. The city shall deposit the money into an interest bearing escrow account until such time as the improvement is constructed. If the 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 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 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1100.03, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.163 WAIVERS.

A subdivider may petition the Planning Commission for a waiver of 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 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 improvements.* The subdivider proposes alternative 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1100.04, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.164 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1100.05, passed 9-3-13)

TREE PRESERVATION AND PROTECTION

📖 § 152.175 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1200.01, passed 9-3-13)

📖 § 152.176 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1200.02, passed 9-3-13)

§ 152.177 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 subchapter.

(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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1200.03, passed 9-3-13)

§ 152.178 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 § [152.190](#), 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 subchapter.

(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 the 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1200.04, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.179 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 this subchapter. A hearing will be held within 48 hours of the issuance of the stop work order as provided in § [152.177](#).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1200.06, passed 9-3-13)

ADDRESSING

§ 152.235 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.01, passed 9-3-13)

§ 152.236 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.02, passed 9-3-13)

§ 152.237 CENTERLINES.

The address grid centroid is the intersection of Henri De Tonti Boulevard 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.03, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.238 STREET NAMES.

(A) *Definition of street.* For the purpose of this subchapter, 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.

<i>Street Suffix</i>	
<i>Direction</i>	<i>Suffix</i>
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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.04, passed 9-3-13)

§ 152.239 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

<i>From North/South Line</i>	<i>Grid to be used</i>
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) *On public streets.* 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.05, passed 9-3-13)

§ 152.240 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 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.1500.06, passed 9-3-13; Am. Ord. 2014-12-488, passed 12-2-14)

§ 152.998 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.

(F) *Flood damage prevention.* Flood hazards are reduced by compliance with the provisions of §§ [152.215](#) through [152.226](#). Accordingly, enforcement of §§ [152.215](#) through [152.226](#) discourages non-compliance and is a recognized mechanism for flood hazard reduction. The Floodplain Administrator must enforce the provisions of §§ [152.215](#) through [152.226](#) and is authorized to:

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

(2) Issue citations for non-compliance;

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

(4) Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of §§ [152.215](#) through [152.226](#).

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.02, passed 9-3-13)

§ 152.999 PENALTY.

(A) *Generally.*

(1) *Procedures.*

(a) When, in the opinion of city staff, a violation of this chapter 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.

(b) The written order shall be by certified mail, restricted delivery, and shall set out the specific violations alleged.

(c) City staff shall also, at the time of issuance of the written order, give notice to the City Attorney of such action.

(d) 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.

(e) 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.

(2) (a) Except as otherwise provided herein, 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.

(b) Each day that any violation of these rules and regulations are in effect shall constitute a separate offense and be subject to additional fines.

(c) 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.

(B) *Tree preservation and protection.* Any person violating any provision of §§ [152.175](#) through [152.179](#) or who fails to comply with any notice issued pursuant to the provisions of §§ [152.175](#) through [152.179](#), upon conviction or a plea of guilty, shall be subject to a fine not less than \$25 nor more than \$1,000 for each separate offense.

(C) *Flood damage prevention.*

(1) It is a misdemeanor to violate or fail to comply with any provision of §§ [152.215](#) through [152.226](#).

(2) Any person found, in a court of competent jurisdiction, guilty of violating §§ [152.215](#) through [152.226](#) 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.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, §§ 152.300.03, 152.1200.05, 152.1400.11, passed 9-3-13)

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