

ORDINANCE NO. 2016-__

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 153.047 COMMERCIAL DISTRICTS OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE OF THE CITY OF TONTITOWN AND DELCARING AN EMERGENCY

WHEREAS, the City Council of Tontitown has adopted Section 153.047 COMMERCIAL DISTRICTS of Chapter 153: ZONING REGULATIONS et seq., as amended; and

WHEREAS, on or about July 3, 2012, the City Council of Tontitown adopted Ordinance No. 2012-07-393 to provide for regulations for commercial districts within the city and said Ordinance No. 2012-07-393, as it has been amended from time to time and as was thereafter codified within Chapter 153: ZONING REGULATIONS in the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.047 COMMERCIAL DISTRICTS and recommends to the City Council that these revisions be approved; and

WHEREAS, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend Section 153.047 COMMERCIAL DISTRICTS of the Tontitown Municipal Code to better provide for regulations for commercial districts; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 153.047 COMMERCIAL DISTRICTS of Chapter 153: ZONING REGULATIONS of the Tontitown Municipal Code should be revised and restated in its entirety as incorporate herein below.

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

Section 1. Section 153.047 COMMERCIAL DISTRICTS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code is hereby revised, and as attached hereto as Exhibit "A".

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

Section 3. Declaration of Emergency. It is hereby found and determined that Section 153.047 COMMERICAL DISTRICTS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety in order to provide regulations for commercial districts 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 _____ day of _____, 2016.

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer

§ 153.047 COMMERCIAL DISTRICTS.

(A) General description.

(1) Regulations for commercial districts are designed to encourage stable and efficient areas to meet the needs for commercial goods and services of both the city’s neighborhoods and its trade area. The Planning Commission will consider, in the administration of commercial districts, the objective of discouraging urban sprawl. The districts are designed to:

- (a) Minimize any potential incompatibilities between commercial developments and other types of land use;
- (b) Provide opportunities for investment as new residential areas and thoroughfares are built, they are particularly designed to encourage the use of undeveloped lands in existing commercial areas;
- (c) Provide sufficient space, at appropriate locations in close proximity to established residential areas for retail and service trade. Such commercial establishments should provide shopping needs of nearby residential areas; and
- (d) Provide sufficient and appropriate space to meet anticipated future needs for planned commercial developments in central shopping districts, regional, community and neighborhood shopping centers.

(2) Provision of off-street parking space in conjunction with commercial area development shall be fostered through commercial districts establishment. Establishments will be encouraged through the districts to congregate in planned developments to the consumer and merchant’s advantage.

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

(1) *C-1, Neighborhood Commercial.* The C-1 District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas while maintaining a character in harmony with residential development. To this end, development in the C-1 District should harmonize in terms of form, bulk, height, materials, architecture, and overall design with surrounding residential areas. Signage and lighting should be subdued while landscaping and open space should be maximized. Parking areas should be as inconspicuous as possible as should loading and trash collection areas.

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Advertising agency	Airport facilities	Building, accessory – nonresidential (§ 153.090)
Adult day care	Animal clinic (§ 153.092)	Dwelling – accessory (§ 153.091)
Animal – domestic or household	Artisan shop	Solar energy system (§ 153.113)
Apiculture (§ 153.093)	Auto parts and supplies	Wind energy system, small (§ 153.115)
Aquarium	Bait shop	
Artist’s studio	Bindery	

ATM machines	Broadcast studio	
Auction house	Business trades (plumbing, heating and air conditioning)	
Bakery	Cabinet or woodwork shop	
Barbershop or beauty shop	Carwash (§ 153.095)	
Bicycle shop	Cell Towers (§ 153.116)	
Book/stationery store	Club or lodge with alcohol	
Business office	Commercial recreation facility - indoor	
Camera shop	Commercial recreation facility – outdoor (§ 153.097)	
Catalog sales	Dance studio	
Catering service	Educational facility	
Cemetery or mausoleum	Entertainment, outdoor	
Child care – commercial (§ 153.096(C))	Financial institution	
Child care – residential (4 children) (§ 153.096(A))	Fitness/health spa	
China shop	Funeral home	
Community center (§ 153.099)	Gas station	
Conference/convention center	Golf course (§ 153.097)	
Convenience store	Heliport	
Copy services	Jewelry store or repair	
Cosmetic sales	Landscaping/nursery	
Costume rental	Livestock market	
Cultural studio	Lodging Bed and breakfast (§ 153.094)	
Dental supplies	Outdoor vending, private property (§ 153.105)	
Drugstore with drive-through	Parking facility (as principal use)	
Dry cleaner/laundromat	Public safety services	
Engraver	Religious facilities (§ 153.108)	

Entertainment, indoor	Restaurant	
Equipment rental – indoor	Retail – small scale (>4,000 gsf)	
Financial institution	Swimming pool, water park	
Fire station	Veterinary clinic	
Florist shop	Temporary uses	
Food specialty store	Tennis courts, commercial	
Furniture repair	Taxidermist	
Garden supplies	Utility facility	
Governmental service facility		
Gymnasium, public		
Health food store		
Hearing aids		
Interior decorating		
Key shop		
Leather goods and luggage		
Library		
Locksmith		
Maintenance service		
Medical services – doctor office		
Museum		
Music instruments		
News and magazine stands		
Office furnishing		
Park – mini		
Park – neighborhood		
Park – community		
Personal services		
Photography studio		
Picture framing		
Postal services		

Repair services - household		
Reservoir, wet or dry detention		
Residential facility – assisted living		
Residential facility – extended medical care		
Residential facility – rehabilitation		
Seasonal sales		
Sewing shop, custom		
Shoe repair		
Travel agency		
Utility facilities		
Watch repair		
Water and wastewater treatment storage facility		
Watershed conservation/flood control		

(2) *C-2, General Commercial.* The C-2 District represents the least restrictive of the commercial districts and is designed to serve the planning area and highway travelers. This district shall congregate on local arterial streets in such a manner as to minimize disruptions of through traffic and shall be interspersed within the corporate boundaries.

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Adult daycare	Airport facilities	Building, accessory – nonresidential (§ 153.090)
Advertising agency	Animal kennel or shelter (§ 153.092)	Dwelling – accessory (§ 153.091)
Animal clinic (§ 153.092)	Beer bars	Solar energy system (§ 153.113)
Animal – domestic or household	Cell towers (§ 153.116)	Wind energy system, small (§ 153.115)
Apiculture		
Appliance/equipment repair		
Aquarium		

Armored car carrier
Artist's studio
ATM machine
Auction house
Auto or equipment auction
Automobile repair
Arena/Auditorium
Artisan shop
Auto and vehicle sales/rental
Auto parts and supplies
Bait shop
Bakery
Bar, lounge or tavern
Barbershop or beauty shop
Bed and breakfast
Bicycle shop
Bindery
Book/stationery store
Broadcasting studio
Business office
Business trades (plumbing, heating and air conditioning)
Building and landscape material sales
Camera shop
Car wash
Carpet sales
Catalog sales
Catering service
Cemetery or mausoleum
Child care – commercial (§ 153.096(C))
Child care – residential (4 children) (§ 153.096(A))

China shop
Club or lodge serving alcohol
Commercial recreation facility – indoor
Commercial recreation facility – outdoor (§ 153.097)
Community center
Conference/convention center
Construction/heavy equipment
Contractor maintenance yard
Copy services
Cosmetic sales
Costume rental
Crematory
Cultural studio
Dance studio
Dental supplies
Drapery shop
Drugstore with drive-through
Dry cleaning/laundromat
Educational facility
Electrical and gas appliances
Engraver
Equipment rental – indoor
Equipment rental – outdoor
Equipment repair
Entertainment, indoor
Entertainment, outdoor
Feed store
Financial institution
Fire station
Fitness/health spa

Florist shop
Food specialties store
Frozen food locker
Funeral home
Furnace cleaning
Furniture repair
Furniture store sales/rental
Garden supplies
Gas station
General merchandise store
Golf course (§ 153.097)
Governmental service facility
Grocery store
Gunsmith
Gymnasium (public)
Health food store
Hearing aids
Interior decorating
Jail
Jewelry store or repair
Key shop
Laboratory – dental or medical
Laboratory - research
Laundromat, public
Leather goods and luggage
Library
Linen supply/heavy laundry
Livestock market
Locksmith
Lodging – hotel/motel

Lumberyard with or without sales
Maintenance service
Medical sales and service
Medical services – hospital (§ 153.102)
Medical services – doctor office
Medical services – urgent care clinic
Medical services – laboratory
Mental health treatment clinic
Mining
Mini-warehouse storage (§ 153.103)
Mortuary or funeral home
Museum
Music instruments
News and magazine stands
Office furnishing
Office – small scale (4,000 gsf)
Office – large scale (> 4,000 gsf)
Office/warehouse
Outdoor vending, private property (§ 153.105)
Package liquor store
Paint and wallpaper store
Park – mini
Park – Neighborhood
Park – community
Parking facility (as principal use)
Pawnshop
Personal services
Pest control
Pet store
Photography studio

Picture framing
Postal services
Public safety services
Recreational vehicle and boat sales/rental
Religious facilities (§ 153.108)
Repair services – household
Repair services – equipment, large appliances
Reservoir, wet or dry detention
Residential facility – rehabilitation
Residential (upstairs or above 1st floor)
Residential facility – assisted living
Residential facility – extended medical care
Residential facility – temporary shelter
Restaurant
Restaurant, drive-in
Retail – small scale (4,000 gsf)
Retail – large scale (>4,000 gsf)
Sales office, general
Secondhand store
Sewing shop, custom
Sexually oriented business (§ 153.111)
Slaughterhouse
Shoe repair
Shoe store
Sign painting
Taxidermy
Temporary uses
Transportation facilities excluding airports
Travel agency
Trucking establishments

Utility facility
Vehicle rental
Vehicle sales and service
Vending machines, sales and service
Veterinary clinic
Warehousing or wholesaling
Watch repair
Water and wastewater treatment storage facility
Watershed conservation/flood control

(C) *Commercial bulk and area regulations.*

(1) *Lot and area requirements.*

<i>District</i>	<i>Min. Lot Area (sq. ft.)</i>	<i>Min. Lot Width</i>	<i>Max. Lot Coverage</i>
C-1	7,000	70 ft.	50%
C-2	7,000	70 ft.	60%

(2) *Minimum setback requirements.* Standards: See table below.

<i>Minimum Setback Requirements (ft.)</i>						
<i>District</i>	<i>Front</i>		<i>Side</i>		<i>Rear</i>	
	<i>With Parking In Front</i>	<i>Without Parking In Front</i>	<i>Adjacent to Non-residential District</i>	<i>Adjacent to Residential District</i>	<i>Adjacent to Non-Residential District</i>	<i>Adjacent to Residential District</i>
C-1	50	20	7	15	20	25
C-2	50	20	7	30	20	30

(3) *Height requirements.*

(a) *Standards.*

<i>District</i>	<i>Maximum Height (ft.)</i>
C-1	40

C-2	60
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(b) *Exceptions.* Any structure exceeding the listed maximum height shall be set back an additional one foot for each foot in excess of the maximum height allowed for that district.

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

<i>District</i>	<i>Maximum building coverage</i>	<i>Maximum impervious area</i>
C-1	60%	80%
C-2	65%	80%

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

(1) *All commercial districts.*

(a) *Lighting.* Any lighting shall be placed so as to reflect away from adjacent residential districts.

(b) *Nuisances.* No excessive or unusual noise, odor or vibration shall be emitted so that it constitutes a nuisance which substantially exceeds the general level of noise, odor or vibration emitted by uses adjacent to or immediately surrounding the site. Such comparison shall be made at the boundary of the site.

(c) *Trash receptacles.* All trash receptacles and pickup shall be oriented away from the street side of the property and adequately screened by a sight-proof fence.

(2) *Open display developments.*

(a) *Landscaping.* Yards without buildings or merchandise shall be landscaped with grass or shrubs and shall be maintained in an orderly manner.

(b) *Traffic surfaces.* All traffic ways and driveways used for entry and exit shall be paved with a sealed surface and maintained in such a manner that dust shall not be produced.

(c) *Assembly.* A completely enclosed building shall be provided for service and assembly of vehicle and equipment. Such activity shall be considered an incidental part of the retail operation.

(d) *Outside storage.* No material or article stored or offered for sale shall be stored or displayed outside area buildings unless it is screened by a permanent screen such as a fence or wall. This is to ensure that such display cannot be seen from an adjoining lot. Screening and display criteria shall include:

1. Minimum height of screening fence or wall shall be six feet.
2. Automobile, truck, tractor, mobile home, boat or motorcycle sales area shall not be required to screen fully assembled merchandise, ready for sale.
3. No permanent open display shall be permitted on sidewalks or public rights-of-way.
4. Storage space for automobile service stations when storing rental trucks or trailers must not exceed 4,000 square feet and must be paved and screening requirements met.

(e) *Open display setback.* There shall be a setback of 20 feet for open display of any kind.

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.401.8, passed 9-3-13; Am. Ord. 2014-12-489, passed 12-2-14)