

ORDINANCE NO. 2017-_____

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

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

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

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

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

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

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

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

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

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

PASSED AND APPROVED this _____ day of _____, 2017.

APPROVED:

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer

CHAPTER 153: ZONING REGULATIONS

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Editor's Note:

Zoning Regulations were adopted by Ord. 2014-12-489 on December 2, 2014.

§ 153.007 DEFINITIONS OF TERMS AND USES.

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

ABUTTING. Having property or district lines in common. Since zoning district lines fall to the center line of a street, alley, or waterway, lots which appear physically separated abut at the district line.

ACCESS. The way or means by which a piece of property is approached or entered.

ACCESSORY BUILDING. See *BUILDING, ACCESSORY*.

ACCESSORY DWELLING. See *DWELLING, ACCESSORY*.

ACCESSORY USE. A use that:

- (1) Is subordinate in area, extent and purpose to the principal use;
- (2) Contributes to the comfort, convenience or necessity of the principal use; and
- (3) Is located on the same lot and in the same zoning district as the principal use.

ACT. The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include any re-amendments thereto.

ADDITION. Any construction which increases the size of the building such as a porch, attached garage or carport, or a new room or wing.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE. A commercial establishment whose principal business purpose (more than 5% of sexually oriented material in inventory) is to offer for sale or rental for any form of consideration any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposing of specified sexual activities or specified anatomical areas; or

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas.

ADULT DAY CARE. An institution maintained and conducted, certified by the state, under public or private auspices which cares for more than four adults who require such care because of age, affliction or limited capacity and who are apart from their own family or relatives during a part of the day.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown, excluding those which are rated by the Motion Picture Association of America, which emphasize specified sexual activities.

ADULT THEATERS. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appearing in a state of nudity of live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

AGRICULTURAL PRODUCTS PROCESSING. A facility which involves the operation(s) of processing, preparing or packaging agricultural products which are not grown on the site.

AGRICULTURE. The use of land for farming, dairying, pasturage, apiculture (bees), aquaculture (fish, mussels), horticulture, floriculture, viticulture (grapes), or animal and poultry husbandry; this includes the necessary accessory uses for packing, treating, or storing the produce from these activities.

AGRICULTURE-RELATED BUSINESS. An establishment engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production, including the bulk storage of hay, feed, seed, fertilizers and related agrichemicals.

ALLEY. A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

ALTERATIONS. Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders the consummated act of which may be referred to herein as altered or reconstructed.

ALTERNATIVE TOWER STRUCTURE. Manmade trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers and are built for the express purpose of serving as a tower or for locating antennas.

ANIMAL, DOMESTIC or HOUSEHOLD. Any animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, rabbits, hamsters, mice, and turtles.

ANIMAL, EXOTIC. Animals that are not usually found running at large within the natural areas of the state; that do not meet the definition of household/domestic animals or farm animals; that are not usually considered as a food supply or animal of burden in the United States, and which close relative or parentage are usually imported from another country.

ANIMAL, FARM. Any animal that customarily is raised in an agricultural, rather than urban, environment, for profit on farms and has the potential of causing a nuisance if not properly maintained, including, but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules. This definition does not include “hobby chicken” which is separately defined.

ANIMAL, GAME. Animals which are normally wild by nature, provide citizens with a portion of food for consumption, and are usually hunted under a permit issued by the state.

ANIMAL OR VETERINARY CLINIC. An establishment for the diagnosis and treatment of pets and other animals including but not limited to dogs, cats, birds and horses. All boarding of animals takes place in an enclosed structure and is incidental to clinic or hospital use.

ANIMAL POUND, SHELTER or KENNEL. A public or private facility including outside runs for enclosure of animals, especially stray or unlicensed pets, or for pets being boarded for short periods of time, where more than five or more animals, more than four months of age are kept.

ANIMAL, WILD BY NATURE. Animals which normally fall within the category of scavenger or predator; may instill fear and apprehension in persons of normal sensitivity, when encountered; require extraordinary precautions to prevent escape, and will not usually voluntarily return to the domicile after escape.

ANTENNA. Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips but not including satellite earth stations.

ANTENNA HEIGHT. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest point of the structure. If the support is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the **ANTENNA HEIGHT**.

APARTMENT. See **DWELLING, MULTIFAMILY**.

APIARY. The assembly of one or more colonies of bees at a single location.

APICULTURE. Beekeeping, which includes one or more hives or boxes occupied by bees (hives or boxes include colonies), but does not include honey houses, extraction house, warehouses, or appliances.

APPLICANT. Any person, firm, or corporation applying for permits or other approvals required by this chapter.

AQUARIUM. An establishment where aquatic collections of living organisms are kept and exhibited.

AREA. The amount of land surface in a lot or parcel of land.

AREA REQUIREMENT. The yard, lot area, width of lot, height of structure, and parking requirements as set forth for a specific zone in this chapter.

ARENA/AUDITORIUM. An enclosed facility used for large public gatherings for viewing sports events, musical programs, public speeches or ceremonies.

ARTISAN/CRAFT PRODUCT MANUFACTURING. Establishments manufacturing and/or assembling small products primarily by hand but in large runs, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products. This definition does not include “artisan shop” which is separately defined.

ARTISAN SHOP. A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, that are small run or one-of-a-kind items, where the store includes an area for the crafting of the items being sold.

ARTISTS STUDIO. See **CULTURAL STUDIO.**

ATM. An automatic device that performs banking or financial functions at a location remote from the controlling financing institution.

AUCTION HOUSE. A building area or areas within a building used for the public sale of goods, ware, merchandise, or equipment to the highest bidder. This definition excludes an “auto auction” or “livestock market” which is separately defined.

AUTHORIZED AGENT. A person or persons authorized by the landowner to act in his or her behalf.

AUTO or EQUIPMENT AUCTION. A facility for the sale of automobiles and large construction or farm equipment to the highest bidder.

AUTOMOBILE REPAIR. Any building, structure or improvements to land used for the repair and maintenance of automobiles, motorcycles, trucks, buses or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire services and sales.

AUTO and VEHICLE SALES and RENTAL. A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers, motorcycles, and scooters with internal combustion engines. (Bicycle sales are included under “general retail”.) Vehicles for sale may be displayed outdoors or indoors, as authorized by the required use permit. May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include:

- (1) The sale of auto parts/accessories separate from a vehicle dealership (see “auto parts sales”);
- (2) Mobile home, recreational vehicle, or watercraft sales (see “mobile home, RV and boat sales”);
- (3) Tire recapping establishments (see “vehicle services”);
- (4) Businesses dealing exclusively in used parts (see “recycling - scrap and dismantling yards”); or
- (5) “Service stations,” which are separately defined.

BAKERY. An establishment primarily engaged in the retail sale of baked products for consumption off-site. The products may be prepared either on or off site.

BANNER. A temporary sign constructed of a lightweight material, such as cloth, canvas, fabric, or flexible plastic, either enclosed in a frame or mounted to allow movement caused by the atmosphere.

BAR, LOUNGE or TAVERN. An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, and where food service is secondary to the sale of beer, wine or other liquors. Includes microbreweries where patrons are served beer produced on the premises for on-site consumption.

BASEMENT. A story partly or wholly underground. For purposes of height measurement, a **BASEMENT** shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

BEEKEEPER. A person who owns or has charge of one or more colonies of bees.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

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.

BILLBOARD. See **OFF-PREMISE SIGN, OFFSITE SIGN, BILLBOARD.**

BOARD. The Board of Zoning Adjustment.

BOTANICAL GARDEN. A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

BROADCASTING STUDIO. An establishment for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures.

BUFFER. A strip of land established to protect one type of land use from another with which it is incompatible. A buffer strip is landscaped and kept in open space. The term **BUFFER ZONE** may be used more broadly to describe any zone that separates two unlike zones such as a multi-family zone between a single-family zone and a commercial zone.

BUILDABLE AREA. The space remaining for construction on a lot after the minimum area requirements (yards, setbacks, coverage) have been met.

BUILDING. Any structure intended for shelter, housing or enclosure of persons, animals, goods or equipment that includes walls and a roof. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure.

BUILDING, ACCESSORY. A detached building or structure the use of which is subordinate to and customarily found in connection with that of the main building or structure on the same lot, including a private garage, workshop or shed. If the building otherwise qualified as an **ACCESSORY BUILDING** is attached to the main building by a common wall or roof, such building shall be considered a part of the main building.

BUILDING, ACCESSORY - NONRESIDENTIAL. An accessory building, the use of which is of a nonresidential nature.

BUILDING and LANDSCAPE MATERIAL SALES. A retail establishment selling hardware, lumber and other large building materials, plant materials, and other landscaping materials. Including, but not limited to, paint, wallpaper, glass, fixtures. Includes all these stores selling to the general public, even if contractor sales account for a major proportion of total sales.

BUILDING, ATTACHED. A building which shares a continuous roof with another adjacent building.

BUILDING, DETACHED. A building having no roof in common with another building.

BUILDING FACADE. The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building.

BUILDING HEIGHT. The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING LINE. A line usually fixed parallel to a lot line, beyond which a building cannot extend under the terms of this chapter. It is equivalent to the setback or yard line.

BUILDING, PRINCIPAL. A building or structure in which is conducted the principal use of the lot on which it is located. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which same is located.

BULK STORAGE OF HIGHLY FLAMMABLE MATERIALS. A facility for the storage of chemicals, gases or liquids which are subject or could be caused to ignite or explode.

BUS or TRUCK STORAGE or GARAGE. A facility in which currently licensed buses or trucks are stored or repaired.

CANOPY ROOF. A permanent, decorative porch or walkway cover other than an awning which is attached to a building or supported by columns extending to the ground.

CAR WASH. A facility for washing or steam cleaning passenger automobiles (including a self-service operation), operating either as a separate facility or when installed and operated in conjunction with another use, and which installation includes equipment customarily associated with a car wash and is installed solely for the purpose of washing and cleaning automobiles.

CARPORT. A shelter for one or more vehicles which is not fully enclosed by walls and one or more doors.

CEMETERY or MAUSOLEUM. A place or ground designated for burial of the dead. A **MAUSOLEUM** is a building with places for entombment of the dead.

CERTIFICATE OF OCCUPANCY. Official certification that a premise conforms to provisions of this chapter and the Building Code and may be used or occupied. Such a certificate may be granted for new construction or for alteration or additions to existing structures.

CHICKEN, HOBBY. Fowl that are being raised on non-agricultural lots as a hobby instead of as a farming operation. **HOBBY CHICKENS** are used for the production of eggs, garden fertilizer, and meat production or as pets for non-commercial purposes.

CHILD CARE, COMMERCIAL. Any child care facility is considered commercial in nature when the facility cares for eight or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation, provided, however, this definition shall not include public or private schools organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, or to children related by blood or marriage within the third degree to the custodial persons. These uses include but are not limited to: commercial day care center, nursery school, pre-school, kindergarten.

CHILD CARE, RESIDENTIAL (FIVE THROUGH TEN). A single family dwelling that regularly provides care, protection, and supervision of between five and ten children, including children under the age often that permanently reside in the home, in the permanent residence of the operator's home, for periods of less than 24 hours per day, while parents or guardians are away.

CHILD CARE, RESIDENTIAL (FOUR). A single family dwelling that regularly provides care, protection, and supervision of no more than four children, including children under the age often that permanently reside in the home, in the permanent residence of the operator's home, for periods of less than 24 hours per day, while parents or guardians are away.

CITY. The City of Tontitown, Arkansas.

CLUB. An organization of persons for special purposes for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

COLD STORAGE PLANT. An establishment where foods or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or other commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

CO-LOCATION. Locating wireless communications equipment for more than one provider at a single communications facility.

COLONY or HIVE. An aggregate of bees consisting principally of workers, but having, when perfect, one queen and at time many drones, including brood, combs, honey and the receptacle inhabited by the bees.

COMMERCIAL RECREATION or ENTERTAINMENT FACILITY, INDOOR.

(1) Establishments providing indoor recreational activities for a fee or admission charge, including:

- (a) Bowling alley;
- (b) Coin-operated amusement arcade;
- (c) Night club;
- (d) Electronic game arcade (video games, pinball);

- (e) Ice skating and roller skating;
- (f) Pool and billiard room as primary use;
- (g) Movie theater; and
- (h) Live theater.

(2) This use does not include adult oriented businesses, which are separately defined. Eight or more electronic games or coin-operated amusements in any establishment, or premises where 50% or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; seven or fewer machines are not considered a land use separate from the primary use of the site.

COMMERCIAL RECREATION or ENTERTAINMENT FACILITY, OUTDOOR.

(1) A facility for various outdoor recreational activities for a fee or admission charge. Examples include:

- (a) Amusement and theme park;
- (b) Go-cart track;
- (c) Golf driving range;
- (d) Miniature golf course;
- (e) Water slide;
- (f) Drive-in movie theater; and
- (g) Live outdoor theater.

(2) May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, and the like. Does not include golf courses, which are separately defined.

COMMISSION. The Tontitown Planning Commission.

COMMON SIGNAGE PLAN. A plan for all signs associated with a development project. If the project consists of several buildings or businesses which are related in a single development, the signage plan shall include all signs within the development including out parcels. The signage plan elements shall include: colors, dominant lettering style, location, materials, and size.

COMMON USABLE OPEN SPACE. That portion of land or an area of water or a combination of land and water within the site designated for a planned unit development and designed and intended for use and enjoyment of residents and owners of the planned unit development, and easily accessible for all the residents. ***COMMON OPEN SPACE*** may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners of the planned unit development, but shall not include areas designed primarily for other than common recreational or open space use.

COMMUNITY CENTER. A facility, generally open to the public, where people may carry on cultural, recreational or social activities. These facilities are not operated for profit and neither alcoholic beverages nor meals are normally dispensed or consumed. This definition includes facilities for lodge or fraternal organizations.

COMMUNITY GARDEN. A site used for growing plants for food, fiber, herbs and/or flowers, which is shared and maintained by community residents.

CONDITIONAL USE. A use permitted in one or more districts as defined by this chapter upon approval by the Planning Commission, but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible with other existing or permissible uses in the same district or districts, and to assure that such uses shall not be inimical to the public interest.

CONDITIONAL USE PERMIT. The documented evidence or authority granted by the Planning Commission to locate a conditional use at a particular location.

CONFERENCE/CONVENTION CENTER. One or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, and the like).

CONSTRUCTION AND HEAVY EQUIPMENT SALES AND RENTALS. Retail establishments selling or renting construction, farm, or other heavy equipment. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, and the like.

CONTRACTOR MAINTENANCE YARD. An open storage yard for supplies and operational equipment, but not constituting a junk or salvage yard.

CONVENIENCE STORE. A retail commercial establishment, not exceeding 2,500 square feet in gross floor area, supplying a limited range of food items, magazines, toiletries, and tobacco products to meet the day-to-day needs of residents in the immediate neighborhood and which may or may not include fuel sales.

CONVEYANCE (OUTDOOR FOOD VENDORS). Any publicly or privately owned vending stand, vending trailer or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food or beverages.

COPY SERVICES. An establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports.

CORNER LOT. See **LOT, CORNER.**

CORRECTIONAL FACILITY or JAIL. A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. These facilities house prisoners who are in the custody of city, county, state or federal law enforcement and the facilities are typically government owned.

COUNTRY CLUB, PRIVATE MEMBERSHIP. An area of 20 acres or more, containing a golf course and a clubhouse available only to the membership. Such a club may contain as adjacent facilities a private club and dining room, swimming pool, tennis courts and similar service and recreation facilities.

COVERAGE. The lot area covered by the buildings including all overhanging roofs except where otherwise specifically designated.

CREMATORY. A building fitted with the proper appliances for the purposes of the cremation of human remains and includes everything incidental or ancillary thereto.

CULTURAL STUDIO. Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of “education facilities -specialized education and training.” Examples of these facilities include:

- (1) Individual and group instruction and training in the arts; production rehearsal;
- (2) Photography, and the processing of photographs produced only by users of the studio facilities;
- (3) Martial arts training studios;
- (4) Gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment.
- (5) Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

CURB CUT. Any access to a vehicular use area from any right-of-way of any street, road, or highway.

DAYCARE CENTER. See **CHILD CARE.**

DISTRICT. Any section or sections of Tontitown for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

DRIVE-THROUGH. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle, rather than within the building or structure.

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).

DUPLEX/TWO FAMILY DWELLING. See **DWELLING, TWO-FAMILY.**

DWELLING. A house, apartment building, or other stationary building designed or primarily used for human habitation.

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

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

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

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

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

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

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

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

DWELLING, ZERO LOT LINE. A single detached dwelling unit that is constructed on a side property line of said lot; such that the wall located on the side property line should be “blank” with no openings of any type allowed.

EASEMENT. A right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usages given by the owner or land to another party, the city or the public.

EAVE. The weather protective overhanging lower edge of a roof.

EDUCATIONAL FACILITIES. Structures and/or tracts of land used for the conduct of educational activities. Uses include but are not limited to, public or private:

- (1) College, junior college, university, or professional school;
- (2) Elementary;
- (3) Secondary;
- (4) Specialized education and training; and
- (5) Trade or craft.

ELECTRIC GENERATING PLANT. A facility that converts non-electrical energy into electricity for sale as a primary use. A variety of sources and/or products may be used to generate power, including but not limited to, petroleum, methane, ethanol, thermal, solar, and hydro-electric. This definition does not include “wind energy systems, large” which has its own definition.

EQUIPMENT RENTAL, INDOOR. An establishment providing the rental of tools, lawn and garden equipment, party supplies and similar goods and equipment, including incidental maintenance and indoor storage.

EQUIPMENT RENTAL, OUTDOOR. An establishment providing the rental of tools, lawn and garden equipment, party supplies and similar goods and equipment with outdoor storage/rental yards. This definition does not include “construction and heavy equipment sales and rental” which is separately defined.

ERECTED. Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for the construction, excavation, fill, drainage and the like shall be considered a part of erection.

EXCAVATION. Any breaking of ground, except common household gardening and ground care.

FAA. The Federal Aviation Administration.

FAMILY. In addition to customary domestic servants, either:

(1) An individual or two or more persons related by blood, marriage or adoption, maintaining a common household in a dwelling unit; or

(2) A group of not more than four unrelated mentally or physically handicapped persons which may include two additional persons, acting as house parents or guardians, who need not be related to each other or to any of the mentally or physically handicapped persons in the group; or

(3) A group not to exceed four persons not all related by blood or marriage, occupying premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, fraternity or sorority, hotel, club, or similar dwelling for group use. A **FAMILY** may include domestic servants employed by the family.

FCC. The Federal Communications Commission.

FINANCIAL INSTITUTION. An establishment with the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments and on-site automatic teller machines.

FLOOR AREA. Total gross area on all floors as measured to the outside surfaces of the exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors and open porches, balconies and terraces.

FUNERAL HOME or MORTUARY. Establishments engaged in undertaking services such as preparing the dead for burial, arranging and managing funerals. Definition does not include “crematory” which is separately defined.

GARAGE APARTMENT. A dwelling unit for one family erected above a private garage, as part of it on the same level.

GARAGE, PRIVATE. An accessory building or part of a main building used for storage purposes only for not more than four automobiles, or for a number of automobiles which does not exceed one and one-half times the number of families occupying the dwelling unit to which such garage is accessory whichever number is the greater.

GAS STATION. A facility for furnishing fuels and lubricating oils or materials for use in operation and maintenance of motor vehicles.

GENERAL PLAN. The adopted city Comprehensive Plan that provides long-range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the Future Land Use Plan and Master Street Plan.

GOLF COURSE. A tract of land laid out with at least nine holes for playing golf and improved with tees, greens, fairways, and hazards. A **GOLF COURSE** includes a clubhouse and shelters as accessory uses.

GOODS, WARES, MERCHANDISE (SIDEWALK VENDORS). Fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

GOVERNMENTAL SERVICE FACILITY. A building or structure owned, operated or occupied by a governmental agency to provide governmental services to the public.

GRADE. The top surface elevation of lawns, walks, drives or other improved surface after completion of construction or grading operation.

GREENHOUSE. A building used for the growing of plants, all or part of which are sold at retail or wholesale.

GROSS ACREAGE. The total acreage of the proposed development including areas designated for internal streets and other public facilities.

GROUND COVERAGE RATIO. The percentage of lot area included within the outside lines of the exterior walls of all buildings located on the lot, except garages and carports in Districts R-1 and R-2 and including the area of porches, decks, patios, breezeways, balconies, and bay windows, except patios not more than six inches above grade.

GUYED TOWERS. A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

HAZARDOUS MATERIAL STORAGE. A facility or outdoor area used to store materials which are poisonous, noxious, and otherwise are hazardous to the health of the general public. The facility may be used to store such things as acids, oils, chemicals, and the like prior to use or may be a permanent storage area for waste chemicals, and the like. These uses include but are not limited to petroleum products storage.

HEIGHT. The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the high point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

HEIGHT (WIRELESS COMMUNICATION FACILITIES). The vertical distance measured from the mean elevation of the finished grade to the highest point on the tower or other structure, even if the highest point is an antenna or antenna array.

HISTORICAL or MEMORIAL MARKER. A sign or tablet attached to a building, indicating the date of construction and/or the names of the building or the principals involved in its construction. Also an attached sign on bona fide historic buildings.

HOME OCCUPATION. A nonresidential use carried on within a dwelling, which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use, lot or structure.

HONEY BEE. All life stages of the common domestic honey bee, *Apis mellifera* species.

IMPERVIOUS SURFACE. A surface composed of any material which impedes or prevents the natural infiltration of water into the soil. Such surfaces include but are not limited to buildings and structures and all concrete, asphalt, gravel surfaces and other such surfaces.

INDUSTRIAL, INTENSIVE. A facility and surrounding yard designed primarily for the preparation, production and distribution of objectionable materials such as chemicals, explosives, and the like. Further, the production of such materials may create noxious odors or gases objectionable to businesses and residences. This may include manufacturing products from raw materials. Such uses include but are not limited to:

- (1) Aerosol containers, filling of;
- (2) Animal and marine fat and oils, manufacturing or processing;
- (3) Animal bones, offal or waste; assembly, incinerator, processing or utilization;
- (4) Mineral preparation; non-metallic;
- (5) Ore reduction;
- (6) Paint, enamel, lacquer, turpentine, varnish, manufacturing;
- (7) Paper manufacturing or processing;
- (8) Arsenals;
- (9) Production of crude petroleum, natural gas natural gas liquids;
- (10) Chemicals compounding or packaging;
- (11) Recycling and reclamation;
- (12) Coal preparation;
- (13) Rendering of animals;

- (14) Creosoting or similar processing;
- (15) Rubber products; natural or synthetic manufacturing;
- (16) Explosives: manufacture, storage warehousing or wholesaling;
- (17) Tanning of hides and skins;
- (18) Fireworks: manufacture, storage;
- (19) Tar or tar products manufacturing or processing;
- (20) Foundry;
- (21) Warehousing or wholesaling flammable gases or liquids; storage;
- (22) Batching or mixing plant, asphaltic or Portland cement, concrete, mortar or plaster;
- (23) Railroad equipment storage or maintenance;
- (24) Railroad freight terminal;
- (25) Brick, tile, clay or ceramic manufacture;
- (26) Scrap or waste materials handling;
- (27) Compounding of cosmetics, toiletries, drugs, and pharmaceutical products;
- (28) Scrap steel cutting on contract basis;
- (29) Dry cleaning and dyeing plant;
- (30) Sign painting;
- (31) Electronic equipment assembly and manufacture;
- (32) Steel products; fabrication and assembly;
- (33) Freight depot, railroad or truck freight forwarding service; and
- (34) Glass or glass products manufacturing.

INDUSTRIAL, LIGHT. A facility and surrounding yard designed to provide an area for wholesaling, storage, packaging, display, distribution, and those retail uses accessory to the operations and for light manufacturing, assembling and fabrication without creating a nuisance of odor, noise, dust, vibrations, and the like. Uses include but are not limited to:

- (1) Air conditioning and heating equipment manufacture;
- (2) Orthopedic or medical supplies manufacturing;
- (3) Jewelry manufacturing;
- (4) Book bindery;
- (5) Bus or truck storage or garage;
- (6) Leather goods fabrication;

- (7) Bottling works, all beverages;
- (8) Mattresses; rebuilding or renovating;
- (9) Brooms and brushes manufacturing;
- (10) Outdoor advertising plant;
- (11) Electrical equipment assembly;
- (12) Processing and manufacturing that by reason of operation is not a nuisance in respect to odor, noise, dust, vibration, and the like;
- (13) Furniture manufacturing;
- (14) Vending machine sales, rental, repair and manufacturing;
- (15) Ice plant, dry or natural;
- (16) Instrument and meter manufacturing;
- (17) Wood distribution;
- (18) Venetian blind, window shade and awning manufacture;
- (19) Industrial cleaning plant;
- (20) Wood or lumber processing; and
- (21) Monument works.

INOPERABLE VEHICLE. Any vehicle, automobile, motorcycle, or boat that does not have a current license and/or is in a state of disrepair so that it cannot operate as intended.

LABORATORY, DENTAL or MEDICAL. A laboratory which provides bacteriological, biological, medical, prosthetic, x-ray pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises except the custom fabrication of dentures.

LABORATORY, MANUFACTURING. Operations involving the compounding of products such as perfumes, pharmaceuticals and the development and assembly of instruments and similar items.

LABORATORY, RESEARCH. A building or part of a building devoted to the testing of any product or animal (including humans) for the purposes of providing written research reports on the results and utilizing those results to produce a new or improved product, medicine, or to better determine how animals function. No manufacturing is conducted on premises except for experimental or testing purposes.

LATTICE TOWER. A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

LIBRARY. A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

LIGHT FABRICATION and ASSEMBLY PROCESS. The manufacture and assembly of items not involving an excessive generation of noise, odor, vibration, dust or hazard.

LIVESTOCK MARKET. An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment or other means.

LOADING SPACE. An off-street space on the same lot with a building or group of buildings, or temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LODGING, BED AND BREAKFAST. An owner occupied dwelling unit that contains no more than five guest rooms where short-term lodging, with or without meals is provided for compensation.

SHORT-TERM LODGING. Lodging for a period not to exceed 21 days.

LODGING, HOTEL or MOTEL. A structure containing six or more guest rooms which are used, rented or hired for sleeping purposes and customary lodging services, including maid services, the furnishing and upkeep of furniture and bed linens, and telephone and desk service, by transient guests. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

LOT. A parcel of land, legally defined in a recorded deed or a recorded plat, fronting in a public dedicated right-of-way or other approved private drive. 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 AREA. The total horizontal area included within the lot.

LOT, CORNER. A lot which has an interior angle of less than 180 degrees at the intersection of two streets lines. A lot abutting upon a curved street shall be considered a **CORNER LOT** if the tangents of the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

LOT COVERAGE. The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot.

LOT DEPTH. The horizontal distance between the front lot line and the rear lot line measured at right angles or radial to the centerline of the street.

LOT, DOUBLE FRONTAGE. A lot which runs through a block having frontage on two nonintersecting streets.

LOT FRONTAGE. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

LOT, INTERIOR. A lot other than a corner lot.

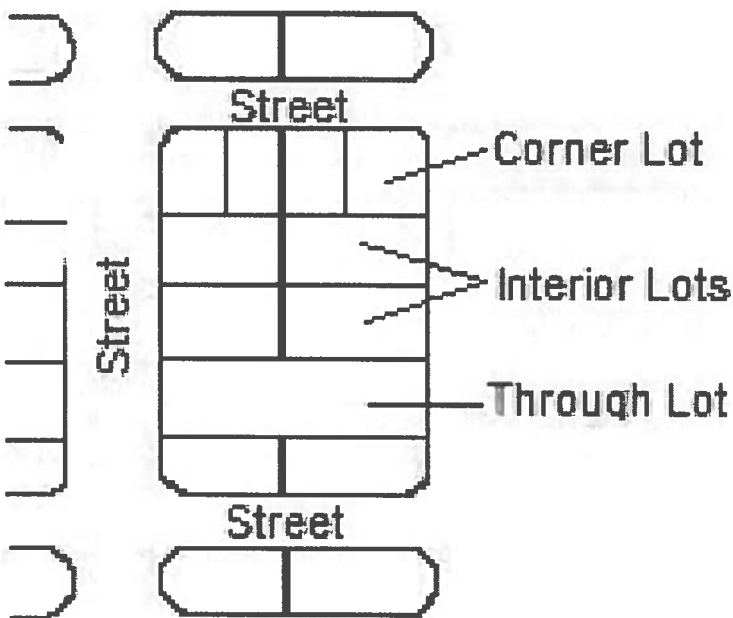
LOT LINES. The lines bounding a lot as defined herein:

(1) **FRONT LOT LINE.** In the case of an interior lot, that line separating the lot from the street. In the case of a corner lot, or double frontage lot, **FRONT LOT LINE** shall mean that line separating the lot from that street which is designated as the front street in the plat and/or in the application for a building permit.

(2) **REAR LOT LINE.** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line not less than ten feet long farthest from and parallel to the front lot line and wholly within the lot.

(3) **SIDE LOT LINES.** Any lot line other than the front lot line or rear lot line. A **SIDE LOT LINE** separating a lot from a street is an **EXTERIOR SIDE LOT LINE**. A **SIDE LOT LINE** separating a lot from another lot or lots is an **INTERIOR SIDE LOT LINE**.

LOT OF RECORD. A parcel of land that is a lot in a subdivision recorded on the records of the County Recorder's office, or that is described by a metes and bounds description which has been so recorded prior to the subdivision regulations in effect, or lots exempt from those regulations.



LOT WIDTHS. The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; measurements shall be made at the front building setback.

MAINTENANCE SERVICE. Base facilities for various businesses that provide services on the premises of then-clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and appliance, computer, electronics, elevator, equipment, HVAC, instrument, plumbing, and other maintenance and repair services not operating from a retail establishment that sells the products being maintained or repaired. When

these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use. When the base facilities for these services include service or storage yards they are instead classified under “contractor maintenance yard.”

MANUFACTURED HOME PARK. A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one or more manufactured homes and which conforms to the provisions of this chapter.

MANUFACTURED HOME SALES. A facility for the sale of manufactured home residences.

MAXIMUM SIGN AREA. The aggregate square footage of sign area on a lot or building. For lots fronting on more than one street, the **MAXIMUM SIGN AREA** shall be the allowable sign area for each street frontage. **MAXIMUM ALLOWABLE SIGN AREA** may not be transferred from one street frontage to another.

MEDICAL SERVICES, CLINIC AND URGENT CARE.

(1) A facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include:

- (a) Medical offices with four or more licensed practitioners and/or medical specialties;
- (b) Out-patient care facilities;
- (c) Urgent care facilities; and
- (d) Other allied health services.

(2) These facilities may also include accessory medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under “office.”

MEDICAL SERVICES, DOCTOR OFFICE. A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists and the like, other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is instead classified under “medical services - clinic, urgent care.” Counseling services by other than medical doctors or psychiatrists are included under “offices - professional.”

MEDICAL SERVICES, HOSPITAL. Hospitals and similar facilities engaged primarily in providing in-patient diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, in-patient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports, and on-site ambulance dispatch facilities.

MEDICAL SERVICES, LABORATORY. Non-research facilities for the testing of blood and tissue samples for medical diagnoses, and for the fabrication of dental prosthetics and eyeglasses. Does not include laboratories for medical research, which are classified under “laboratory - research.”

MEDICAL SERVICES, SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT CLINIC. A facility where the primary activity is the treatment and care of persons suffering from mental or emotional disorders or substance abuse.

MINIMUM LANDSCAPED OPEN SPACE. The percentage of lot area which must be maintained in grass or other living vegetation.

MINING. A tract of land where various minerals, ore, and the like are extracted from the earth. May also include a distribution area for truck/rail loading of ore and materials. Uses include but are not limited to:

- (1) Exploration for minerals;
- (2) Mining of coal, metal ores and nonmetallic minerals other than fuels;
- (3) Extraction of sand, gravel, clay, quarrying of rock; and
- (4) Removal of topsoil for sale purposes.

MINI-WAREHOUSE STORAGE. One or more permanent structures, meeting applicable city building requirements, which contain separate storage units or cubicles that are intended to be leased by members of the public.

MOBILE HOME. A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than 320 square feet, and designed to be used as a year round residential dwelling unit.

MONOPOLE TOWER. A communication tower constructed without the use of guy wires and ground anchors and consisting of only a single pole. Also called a **SELF-SUPPORT TOWER**.

MOTOR VEHICLE (SIDEWALK VENDORS). Any vehicles used for displaying, storing, or transporting articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles of any state.

MULTI-FAMILY DWELLING. See **DWELLING**.

MUNICIPALITY. The City of Tontitown, Arkansas.

MUSEUM. A building serving as a repository for a collection of natural, scientific or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include the sale of goods and meeting facilities as accessory uses.

NET METERING (WIND ENERGY SYSTEMS). The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

NONCONFORMING BUILDING OR STRUCTURE. Any building or structure lawfully existing on the effective date of this chapter, as amended, which does not comply with all of the regulations of this chapter for governing parking or bulk and area requirements for the zoning district in which such building or structure is located.

NONCONFORMING USE. Any use lawfully being made of any land, building or structure, on the effective date of this chapter, as amended, which does not comply with all the regulations of this chapter governing use for the zoning district in which such land, building or structure is located.

NUDITY or STATE OF NUDITY.

(1) The appearance of the bare human buttocks, anus, male genitals, female genitals, or female breast.

(2) A state of dress which fails to provide an opaque covering of a human buttocks, anus, male genitals, female genitals, or areola of the female breast.

OFFICE, LARGE SCALE. An office facility with a gross floor area of more than 4,000 square feet, characterized by high employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include “medical services, doctor office” which is separately defined.

OFFICE, SMALL SCALE. An office facility with a gross floor area of 4,000 square feet or less, characterized by low employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include “medical services, doctor office” which is separately defined.

OFFICE-WAREHOUSE. A facility combining office and warehouse functions in a single structure, characterized by occasional truck deliveries and that does not create a nuisance such as dust, noise, or odors. Any warehouse activity with heavy trucking activities or nuisances shall be considered under the term “warehousing or wholesaling.”

OPEN PORCH. A porch which has no side or front walls, screens or other enclosures, except structural roof supports where a roof is provided.

OPEN SPACE. Any unoccupied space on the lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.

ORDINANCE. This chapter, which includes both zoning map and zoning regulations.

OUTDOOR FOOD VENDING, PRIVATE PROPERTY (OUTDOOR FOOD VENDORS). The exhibit, display, or sale of any food or beverages, from a conveyance at a fixed location on private property. This definition does not include a door-to-door peddler, solicitor, or homeowners having garage sales.

PARK. A recreational area characterized by open space typically utilized for outdoor sports and other leisure activities.

PARK, COMMUNITY. A park that is between ten and 400 acres in size serving the residents of the city. It may consist of both active and passive recreation facilities including tennis courts, ball fields, pools, basketball courts, soccer fields, picnic areas, trails, and volleyball courts.

PARK, MINI. A park that is one acre or less in size with specialized facilities that serve a limited population. It may include a playground and passive areas for adults. A MINI-PARK typically does not have parking facilities.

PARK, NEIGHBORHOOD. A park that is between one and five acres in size with a service area of one-half to one mile. Facilities may include playing fields, playgrounds, shelters and restrooms to accommodate active recreation. Parking is typically provided.

PARKING FACILITY (AS PRINCIPAL USE). A parcel of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same lot.

PARKING SPACE. An area of definite length and width, exclusive of drives, aisles or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

PARKING SPACE, OFF-STREET. A space for the parking of a motor driven vehicle within a parking lot and having a permanent means of access to a street right-of-way without requiring passage through another parking space.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

PERSONAL SERVICES. Establishments providing non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops; dry cleaning pick-up stores with limited equipment; laundromats (self-service laundries); locksmiths; pet grooming and/or daycare with no overnight boarding; tailors; tanning salons; day spas; tattoo studio.

PETROLEUM PRODUCTS, STORAGE AND WHOLESALE. A facility for the storage and sale of petroleum products.

PLACES OF PUBLIC ASSEMBLY. A meeting place for more than 35 persons to which the public or membership group are assembled regularly or occasionally including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

PLANNED RESIDENTIAL DEVELOPMENT (PRD). A comprehensive residential planned land development project in which the standard requirements of the zoning ordinance and subdivision regulations may be varied to permit design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

PLANNED UNIT DEVELOPMENT (PUD). A comprehensive planned land development project in which the standard requirements of the zoning ordinance and subdivision regulations may be varied to permit design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

PLANNING COMMISSION. The Planning Commission of the City of Tontitown, Arkansas.

PLANT NURSERY. A facility for growing and selling plants, shrubs or trees and other articles or implements which are involved in the transportation, installation and maintenance of landscaped areas.

POSTAL SERVICES. Facilities that provides packaging and mail services (both U.S. postal and private service), provides mail boxes for lease, and conducts the retail sale of stationary products.

PRINCIPAL BUILDING. See ***BUILDING, PRINCIPAL.***

PRINCIPAL USE. The use which fulfills the primary function of an establishment, institution, household or other entity.

PUBLIC SAFETY SERVICES. Facilities operated by public agencies for public safety and emergency services, including fire stations, police and sheriff stations, ambulatory service and including related administrative facilities and interim Incarceration facilities. Does not include “governmental service facility” which is separately defined.

PUBLIC UTILITY. Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telegraph, transportation of water or cable television.

PUBLIC WAY (OUTDOOR VENDORS). All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

PUSHCART OR HANDCART (OUTDOOR FOOD VENDORS). Any open-air wheeled device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food or beverages, and for being pushed by a person without the assistance of a motor vehicle.

REAL ESTATE SIGN. A sign advertising the premises for sale, rent or lease.

RECEIVE-ONLY ANTENNA. An antenna less than 50 feet in height privately owned and operated including privately owned satellite dishes.

RECLASSIFICATION. An amendment to or a change in this chapter reflecting a change or revision or modification of the zoning district boundary map.

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are: travel trailers, truck campers, and motor homes that are not larger than eight and one-half feet by 40 feet.

RECREATIONAL VEHICLE AND BOAT SALES AND RENTAL. Retail establishments selling various vehicles and watercraft for recreational uses, including but not limited to the sale of boats, campers and camper shells, travel trailers, jet skis, and ATVs.

RECREATIONAL VEHICLE PARKS. A lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

RECREATIONAL VEHICLE SITE. A plot of ground within a recreational vehicle park intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis.

RECYCLING AND RECLAMATION. A facility for receiving, sorting, storing and reconditioning appliances, building materials, and any other salvaged or reclaimed materials.

RELIGIOUS FACILITIES. A place of worship and religious training and including accessory housing facilities such as a rectory. A place where persons regularly assemble for religious worship which is used only for such purpose and those accessory activities as are customarily associated therewith. Uses include, but are not limited to church, synagogue or temple, including Sunday school facilities:

- (1) Parish house, parsonage or rectory;
- (2) Convent or monastery or novitiate;
- (3) Religious retreat facility; and
- (4) Child care or mother's day out.

REPAIR SERVICES, EQUIPMENT AND LARGE APPLIANCES. A service facility where various types of electrical, electronic, and mechanical equipment, and home and business appliances are repaired and/or maintained away from the site of the equipment owner. Does not include:

- (1) Vehicle repair or maintenance, which is included under "automobile repair;"
- (2) The repair of small home appliances and electronic equipment, which is included under "repair service -household;"
- (3) Maintenance and repair activities that occur on the client's site, which are included under "maintenance service;" or
- (4) Repair services provided on the site of a retail use that sells the products for which repair services are offered, where the repair services are incidental to the on-site sales.

REPAIR SERVICES, HOUSEHOLD. Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding "automobile repair" and "repair services, equipment, large appliances, and the like" which are separately defined. Typical uses include home electronics and small appliance repair; shoe repair; watch or jewelry repair; upholstery services, or repair of musical instruments.

RESIDENCE. A building or part of a building containing one or more dwelling units or rooming units. However, residences do not include:

- (1) Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments; or
- (2) Dormitories, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or
- (3) Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facility uses. See also **DWELLING**.

RESIDENTIAL DISTRICT. Any land within the city limits, zoned as R-E, R-1, R-2, R-3, R-4, R-MH, and RZL.

RESIDENTIAL FACILITY, ASSISTED LIVING. Residential facilities consisting of individual dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring nonmedical assistance with day-to-day living matters. This definition does not include “residential facility -rehabilitation” which is separately defined. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

RESIDENTIAL FACILITY, EXTENDED MEDICAL CARE. Residential facilities providing nursing and medical care as a primary use with in-patient beds.

RESIDENTIAL FACILITY, REHABILITATION. Residential facilities, either single dwelling or multi-unit facilities, licensed and supervised by a federal, state, or county health or welfare agency that provides 24-hour nonmedical care of more than eight unrelated persons rehabilitating from alcohol or drug abuse.

RESIDENTIAL FACILITY, TEMPORARY SHELTER. Residential facilities providing temporary shelter for a person physically or mentally abused by family or for displaced persons and/or families. Such place may or may not provide on-site meals but furnishes a safe haven for people.

RESIDENTIAL OCCUPANCY. Those activities customarily conducted in living quarters in an urban setting. Excluding activities resulting in noise which constitutes a nuisance in a residential area and activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap materials.

RESTAURANT. An establishment in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as grills, cafes, drive-through and any fast food establishment permitting consumption on the premises.

RESTAURANT, DRIVE-IN. Any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages or other food, served directly to, or permitted to be consumed by, patrons in automobiles or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site, outside the main building.

RETAIL COMPLEX. A primarily retail commercial site with three or more separate businesses sharing common pedestrian and parking areas.

RETAIL, LARGE SCALE. A retail store with a gross floor area of more than 4,000 square feet for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term “food store” includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this section that are specifically listed.

RETAIL, SMALL SCALE. A retail store with a gross floor area of 4,000 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar

consumer goods. The term “food store” includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this section that are specifically listed.

SALVAGE YARD.

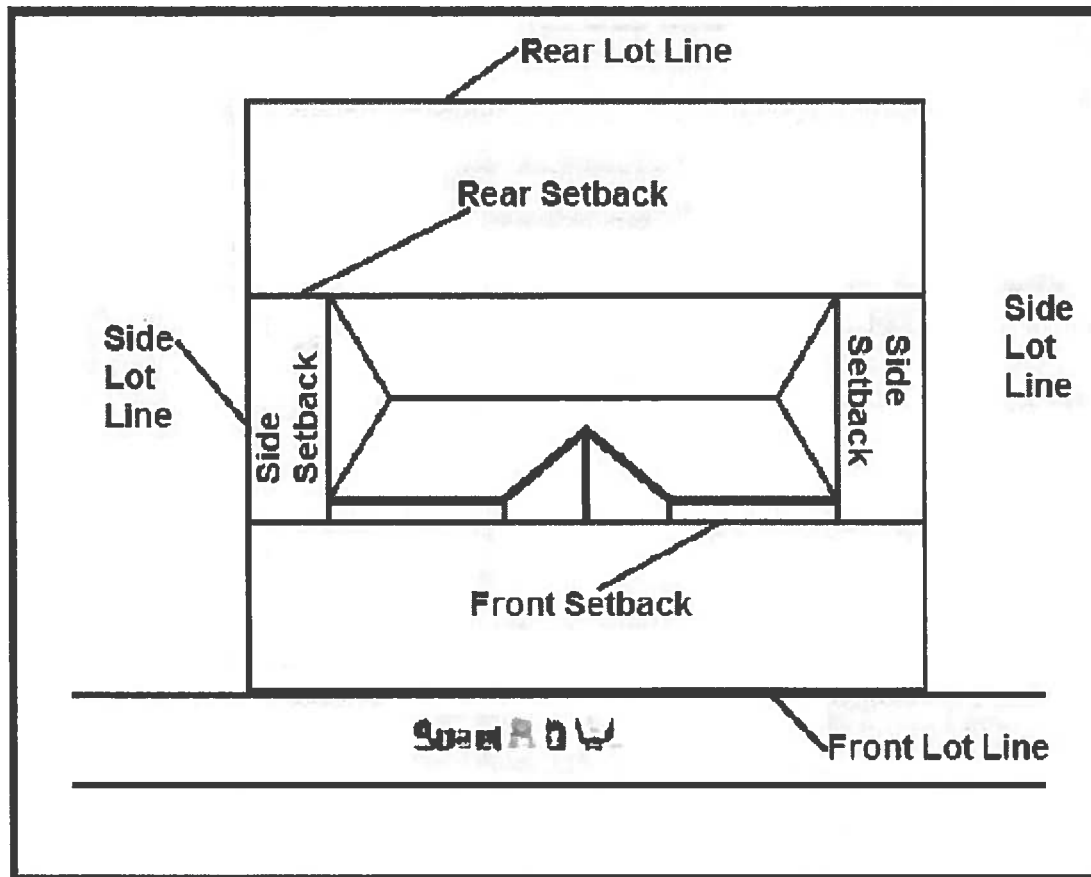
(1) Any parcel of land or building for which the principal or accessory use is the storing, keeping, dismantling, collection, salvaging, buying or selling of:

(a) Scraps or discarded pieces of metal, paper, rags, tires, bottles, furniture and other materials; and/or

(b) Inoperable, wrecked, scrapped, ruined or discarded automobiles, automobile parts, machinery or appliances.

(2) A ***JUNK OR SALVAGE YARD*** shall not include premises on which such uses are conducted entirely within a completely enclosed building, nor shall a ***JUNK OR SALVAGE YARD*** include premises used primarily for the sale or storage of operable automobiles or for the overhaul or full repair thereof, so long as no inoperable junk or wrecked automobile remains outside more than 30 days. Any premises on which there remains outside more than 30 days an inoperable, partially dismantled, wrecked, or junked automobile, shall be deemed for the purpose of this chapter, a ***JUNK OR SALVAGE YARD***.

SETBACK. The required distance between every structure and any lot line on the lot on which it is located.



SEWAGE TREATMENT PLANT. A facility designed for the treatment of sewage that is provided and maintained by the county, municipality, or a utility company which a governmental agency has specifically approved as acceptable.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, or adult theater as the same are defined herein.

SHADOW FLICKER (WIND ENERGY SYSTEMS). The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

SIDEWALK CAFÉ. An outdoor dining area, not enclosed by a fence or other visual barriers in excess of 36 inches in height, placed on a public right-of-way and contains removable tables, chairs, planters or other appurtenances and is abutting/contiguous to a restaurant that performs food preparation, sanitation, and related services for the **SIDEWALK CAFÉ**.

SIDEWALK (OUTDOOR VENDORS). All area legally open to the public used as a pedestrian public way between the curb line and the legal property line of the abutting property.

SIDEWALK SALES (OUTDOOR VENDORS). A special temporary sale, not exceeding three consecutive days, to the public of any goods, wares or merchandise or services by any retail or wholesale business, which sale is conducted on private property of the business selling the

merchandise on the public sidewalk immediately adjacent to the retail or wholesale business selling the merchandise.

SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names or trademarks by which anything is made known such as are used to designate an individual, a commodity, a firm, an association, a corporation, a profession, a business, a service, or a product, which are visible from any public street or right-of-way and designed to attract attention. “For Sale” and “For Rent” signs shall be deemed **SIGNS** within the meaning of this definition, but the term **SIGN** shall not include the flag, pennant or insignia of any nation, state, city, or other political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event, used for a public purpose in the public interest. Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever including billboards and statuary, placed for outdoor advertising purposes on the ground or any tree, wall, bush, rock, post, fence, building or structure. The term “placed” shall include erecting, constructing, posting, painting, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing, or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross-section of such structure. Neither directional, warning or other signs posted by public officials in the course of their public duties, nor merchandise or materials being offered for sale shall be construed as **ADVERTISING SIGNS** for the purpose of this chapter.

SIGN AREA. The **SIGN AREA** is measured by finding the area of an imaginary rectangle, circle or triangle which fully encloses the sign message, including background and logos but not including supports or braces. For multi-faced signs, sign area shall be computed from the vantage point which gives a view of the largest amount of sign area. If two identical signs are back to back, and are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

SIGN, AWNING. A sign which is a part of a fabric or other non-structural awning.

SIGN, CHANGEABLE COPY. Any sign where letters or numbers displayed on the sign can be changed periodically on the sign to display different messages.

SIGN, CONSTRUCTION. A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date.

SIGN, DOOR. A sign which is attached to, painted on or etched onto or into a door. A sign in a window which is part of a door is a **DOOR SIGN** for the purposes of this section.

SIGN, ELECTRONIC CHANGEABLE COPY. Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed surface composed of electronically illuminated or mechanically driven changeable segments.

SIGN, FREESTANDING. A sign which is not attached to a building and permanently attached to the ground by one or more supports. There are two types of **FREESTANDING SIGNS**:

(1) **LOW STATURE FREESTANDING SIGNS (GROUND OR MONUMENT SIGNS).** Freestanding signs in which the distance from the ground to the highest point of the sign is five feet or less.

(2) **HIGH STATURE FREESTANDING SIGNS.** Freestanding signs in which the distance from the ground to the highest point of the sign is more than five feet.

SIGN HEIGHT. The vertical distance from normal grade to the highest point of the sign. Any berming or filling or excavating solely for the purpose of locating the sign, shall be computed as part of the **SIGN HEIGHT**.

SIGN, INCIDENTAL. An on premise sign giving information or direction for the convenience and necessity of the public such as “entrance,” “exit,” “no admittance,” “telephone,” “ parking,” and the like.

SIGN, MANUAL CHANGEABLE COPY. Signs on which alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

SIGN, MARQUEE. A sign used to identify a theater or a sign projection over the entrance to a theater.

SIGN, MONUMENT. A low-stature, freestanding, permanent sign placed on a solid base that extends a minimum of 75% of the length and width of the sign and the sign display area is completely enclosed with materials that match the facade of the principal use. Pole or pylon signs shall not be classified as **MONUMENT SIGNS**.

SIGN, NONCOMMERCIAL. A sign which is not an on-premise or off-premise sign and which carries no message, statement, or expression related to the commercial interests of the sign owner, lessee, author or other person responsible for the sign message. **NONCOMMERCIAL SIGNS** include but are not limited to:

(1) Signs expressing political views; and/or

(2) Religious views or signs of non-profit organizations related to their tax-exempt purposes.

SIGN, OBSOLETE. A sign relating to or identifying a business or activity which has not been conducted on the premises for six months, or to a transpired election or event, or to a political party or non-profit organization that no longer exists; in addition, the structure for a sign that is not allowed under this chapter if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of this chapter, or a sign which has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.

SIGN, OFF-PREMISE, OFF-SITE SIGN, or BILLBOARD. A sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located, or which business, commodity, service or entertainment forms only minor or incidental activity upon the premises where the sign is displayed. The sale of a commodity is considered a minor activity if the commodity advertised is a specific brand or if the advertising content is not directly controlled, or has in the past not been directly controlled

by the operator of the on-premises business. These product-oriented signs shall be considered on-premises signs if they comply with on-premise sign requirements.

SIGN, ON-PREMISE or ON-SITE. A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, including but not limited to:

- (1) Signs with attached wheels;
- (2) Signs converted to A- or T- frame signs;
- (3) Menu and sandwich board signs;
- (4) Gas, air or hot air filled displays; and

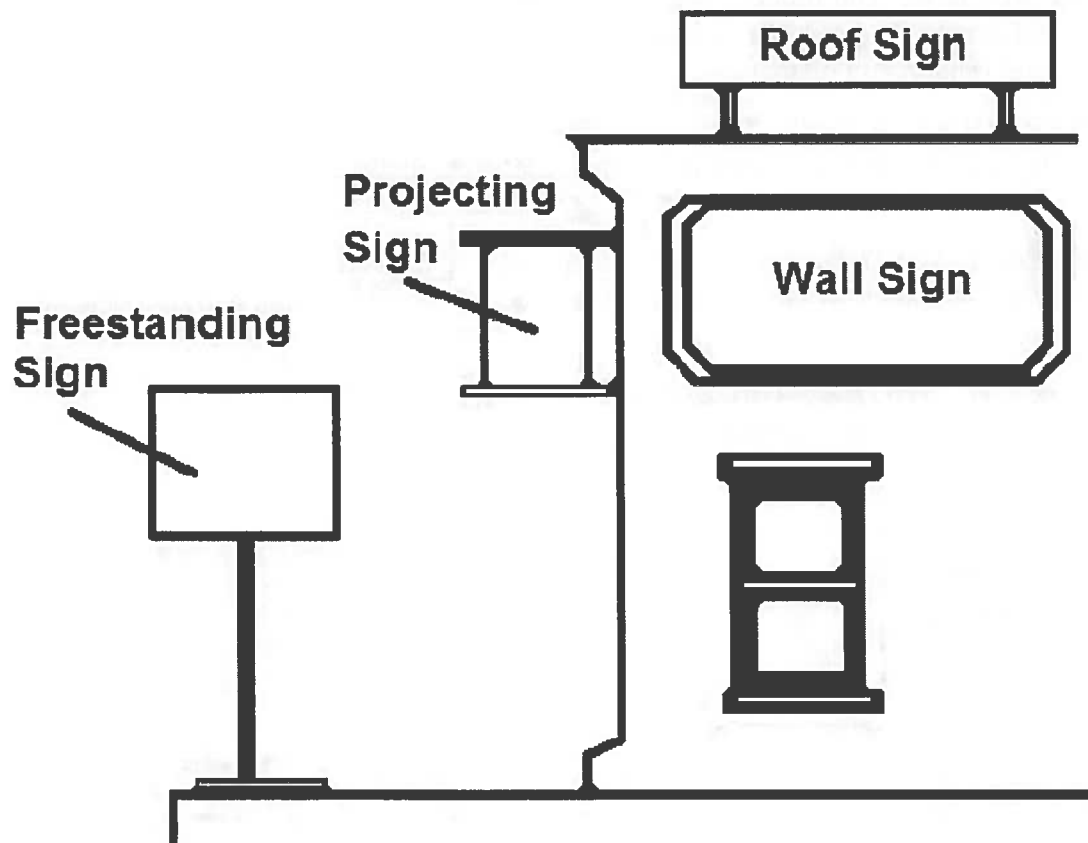
(5) Signs attached or painted on vehicles parked and visible from the right-of-way, unless the vehicle is used as a vehicle in the normal day-to-day operations of the business.

SIGN, PROJECTING. A sign forming an angle with a building which extends from the building and is supported by the building.

SIGN, PUBLIC. A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.

SIGN, REAL ESTATE. A sign pertaining to the sale, rent or lease of real property.

SIGN, ROOF. A sign which is higher than the roof to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.



SIGN, SUSPENDED. A sign which is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.

SIGN, TEMPORARY. Any sign which is intended for temporary use or which is not permanently mounted and intended for a designated period in time.

SIGN, WALL. Any sign, other than a projecting sign or a temporary banner sign, which is permanently attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches. This definition shall not include freestanding walls. A sign attached to the lower slope of a mansard or canopy roof, or a sign affixed to or forming an awning or a canopy, shall be considered a **WALL SIGN** for purposes of this chapter, notwithstanding the fact that certain portions of such a sign may project more than 12 inches. For purposes of this section only, a "wall" shall include any permanent architectural extension of a wall, including parapets, even of such extension projects beyond or above the enclosed portions of the building. For signs higher than the roof, see **SIGN, ROOF**.

SIGN, WINDOW. Any sign which is not a temporary sign and which is attached to, painted on or etched into a window or which is displayed within 12 inches of the window and is legible from outside the window.

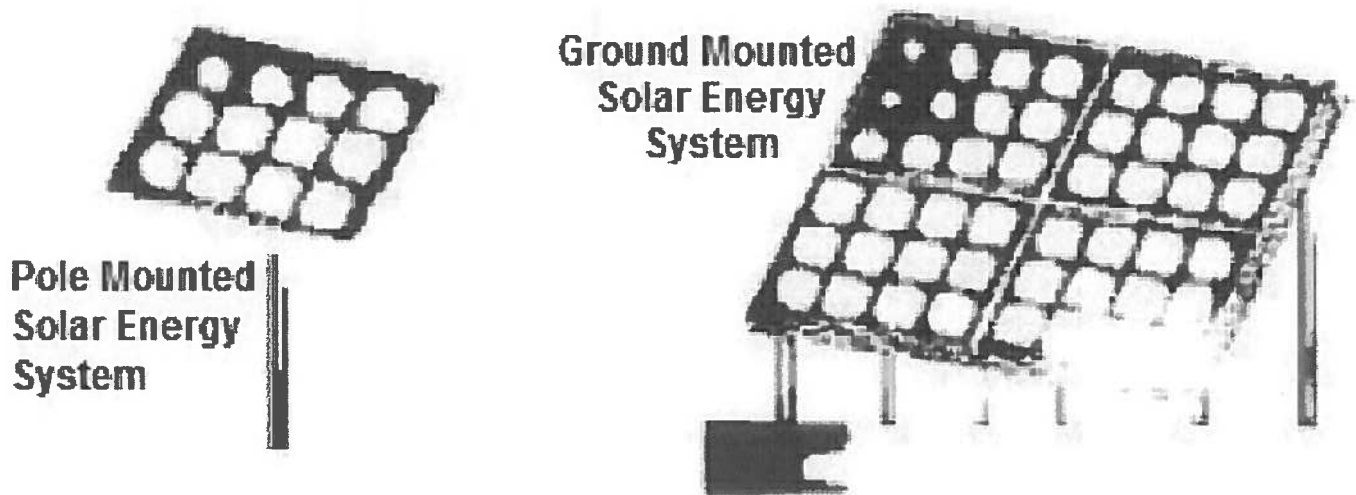
SINGLE FAMILY DWELLING. See **DWELLING**.

SITE PLAN REVIEW. The process whereby the Planning Commission and/or staff review the site plans and maps of a developer to assure that they meet the stated purposes and standards of this chapter and subdivision regulations.

SLAUGHTERHOUSE. A facility for the slaughtering of animals; processing and refining of their byproducts; and prepared for distribution; activities may include packing, treating, storage or sale of the product on the premises.

SOLAR ENERGY SYSTEM. An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy to meet all or a significant part of a structure's energy requirements.

SOLAR ENERGY SYSTEM, GROUND MOUNTED. A solar energy system that is supported by a grid system that is attached to the ground.



SOLAR ENERGY SYSTEM, POLE MOUNTED. A solar energy system with solar panels attached to the top or side of a vertical pole.

SOLAR ENERGY SYSTEM, ROOF MOUNTED. A solar energy system that is supported by a grid system that is attached to the roofs structural members.

SOLAR PANELS (SOLAR ENERGY SYSTEMS). A solar photovoltaic panel, or solar hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLID WASTE DISPOSAL. The entire process of storage, collection, transportation, processing, and disposal of solid wastes by any city, authority, county or any combination thereof, or by any person engaging in such a process as a business. Uses include but are not limited to solid waste disposal and garbage or trash: assembly, incineration or processing.

SPECIAL EVENT. Any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the city for a period of time not to exceed seven days.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, or sodomy; and/or

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

STABLE (COMMERCIAL). A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

STEALTH TECHNOLOGY. Systems, components and materials used in the construction of WCF to make it compatible with the surrounding property.

STORY. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A ***HALF-STORY*** containing independent apartment or living quarters shall be counted as a full story.

STREET. Any public thoroughfare which affords the principal means of access to abutting property.

STREET, INTERSECTING. Any street which joins another street at an angle, whether or not it crosses the other.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial changes in the roof or in the exterior walls.

STRUCTURE. Anything constructed or erected for human occupancy and/or entrance, the use of which requires location on the ground or attached to something having a location on the ground.

TAXIDERMY. The art of preparing the skins of animals to make them appear lifelike.

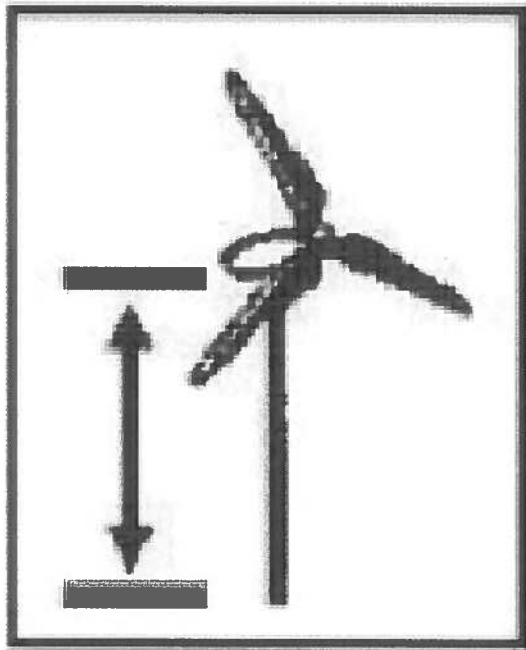
TELECOMMUNICATIONS. The transmission, between or among points as specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

TEMPORARY USES. Land uses that are not permanent in nature and often include, but are not limited to, carnivals, circus, tent revivals, real estate sales offices, construction facilities and Christmas tree stands.

TOTAL HEIGHT (WIND ENERGY SYSTEMS). On a wind turbine, the distance measured from ground level to the blade extended at its highest point.

TOWER (WIND ENERGY SYSTEMS). The monopole, guyed monopole or lattice structure that supports a wind generator.

TOWER HEIGHT (WIND ENERGY SYSTEMS). On a wind turbine, the height above grade of the fixed portion of the tower, excluding the wind generator.



TOWER or COMMUNICATION TOWER. Any structure that is designed and constructed for the primary purpose of supporting one or more antennas, including lattice towers, guy towers, or monopole towers. The term includes:

- (1) Radio and television transmission towers;
- (2) Microwave towers;
- (3) Common-carrier towers;
- (4) Cellular telephone towers; and
- (5) Alternative tower structures, and the like.

(6) This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one or more antennas, despite the fact that such structure may currently, or in the future, actually support one or more antennas.

TRANSPORTATION FACILITIES, EXCLUDING AIRPORTS. Facilities providing surface transportation for the general public. These may or may not be publicly-owned. Uses include but are not limited to:

- (1) Bus station;
- (2) Truck;
- (3) Bus;
- (4) Train terminals; and
- (5) Taxicab stand or dispatching station.

TRANSMISSION TOWER/STATION. A tower and/or associated station which receives and/or sends radio and/or television waves such as radio towers. This definition does not include amateur radio communication installations. Uses shall include but not be limited to radio transmitting stations or towers and television exchange station relay towers.

TRAVEL TRAILER. An object designed for accommodation intended and used exclusively for travel, recreation and vacation and which is capable of being drawn or propelled by a motor vehicle or is self-propelled and includes tent trailers or similar transportable accommodation, but does not include a mobile home.

USE. A purpose to which land is committed.

USE AREA. A zone established for a certain type of use such as commercial or residential.

UTILITY FACILITY. A fixed-base structure or facility serving as a junction point for transferring electric utility services from one transmission voltage to another or to local distribution and service voltages, and similar facilities for water supply and natural gas distribution. These uses include any of the following facilities:

- (1) Corporation and maintenance yards;
- (2) Electrical substations and switching stations;
- (3) Natural gas regulating and distribution facilities;
- (4) Public water system wells, treatment plants and storage;
- (5) Telephone switching facilities;
- (6) Wastewater treatment plants, settling ponds and disposal fields.

VARIANCE. A device which grants a variation from the literal provisions of this chapter in instances where strict enforcement of this chapter would cause undue hardship due to circumstances unique to the individual property under consideration.

VEHICLE (SIDEWALK VENDORS). Every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

VENDING STAND (OUTDOOR FOOD VENDORS). An open-air fixture or device, such as a showcase, table, bench, rack, handcart, pushcart, stall that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food or beverages at a fixed location. This definition does not include vending trailers.

VENDING TRAILER (OUTDOOR FOOD VENDORS). A device enclosed on at least three sides with a permanent roof, mounted on wheels, designed to be pulled by a motor vehicle for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food or beverages.

WAIVER. Permission from the Planning Commission to depart from certain requirements herein, as approved by the City Council.

WALL. One of the sides of a room or building connecting floor and ceiling or foundation and roof.

WAREHOUSE or WHOLESALING. A use engaged in indoor storage of manufactured products, supplies and equipment characterized by frequent heavy trucking activities or nuisances such as dust, noise and odors, but not involved in manufacturing or production. This definition does not include the “bulk storage of highly flammable materials,” which has its own definition.

WASTEWATER TREATMENT PLANT and RELATED FACILITIES. A facility for the systematic collection and treatment of wastewater.

WATER TREATMENT PLANT and RELATED FACILITIES. A facility for the systematic collection and treatment and dispersal of water.

WIND ENERGY SYSTEM, LARGE. A wind energy conversion system used primarily to generate power for off-site consumption, more than 100 kW, consisting of one or more wind turbines and associated accessory facilities.

WIND ENERGY SYSTEM, SMALL. A wind energy conversion system used primarily to generate power for on-site consumption, 100 kW or less, consisting of a wind turbine, tower, base and associated control or conversion electronics.

WIND TURBINE (WIND ENERGY SYSTEMS). The parts of the wind energy system including the blades, generator and tail.

WIRELESS COMMUNICATIONS FACILITY (WCF) (CELL TOWERS). A land use facility that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. It includes antennas, microwave dishes, horns and other types of monopoles, or similar structures supporting said equipment, equipment buildings, shelters or cabinets, and other accessory development. **WIRELESS COMMUNICATION FACILITY** includes personal wireless services as defined in the Federal Telecommunication Act of 1996, and as subsequently amended. **WIRELESS**

COMMUNICATION FACILITY shall not include the following: federally licensed amateur radio stations and facilities used exclusively for receive-only antennas.

YARD. An open space at grade between a building and the adjoining lot line, unoccupied and unobstructed by a portion of a structure from the ground upward, except where otherwise specifically provided in this chapter that the building or structure may be located in a portion of a yard required for main buildings. In measuring a **YARD** for the purpose of determining the width of the side yard, the depth of the front yard, or the depth of the rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

YARD, EXTERIOR. Any yard which is adjacent or parallel to a public or private street.

YARD, FRONT. The required area of open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building or of any open, unenclosed porch or paved terrace as measured from the exterior face of the building foundation.

YARD, INTERIOR. Any yard which does not run adjacent to or parallel with a public or private street.

YARD, REAR. The required area of open space extending across the full width of the lot between the rear most main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such building.

YARD, SIDE. The required area of open space between the main building and the side lot line, extending from the front yard or front lot line, where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building.

ZERO LOT LINE. See **DWELLING, ZERO LOT LINE**.

ZONING DISTRICT. A section of the city designated in this chapter in which requirements for the use of land and building and development standards are prescribed.

ZONING DISTRICT BOUNDARY. That boundary line which separates unlike zoning districts.

(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, § 153.201.2, passed 9-3-13; Am. Ord. 2014-12-489, passed 12-2-14; Am. Ord. 2016-07-587, passed 7-5-16)

§ 153.041 CLASSIFICATION OF DISTRICTS.

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

- (A) *Agricultural*. A-1, Agricultural.
- (B) *Residential*.
 - (1) R-E, Residential Estate.
 - (2) R-1, Single Family Residential.
 - (3) R-2, Low Density Residential
 - (4) R-3, Medium Density Residential.
 - (5) R-4, High Density Residential.
 - (6) R-MH, Manufactured Home Residential.
- (C) *Commercial*.
 - (1) C-1, Neighborhood Commercial.
 - (2) C-2, General Commercial.
- (D) *Industrial*.
 - (1) I-1, Light Industrial.
 - (2) I-2, Heavy Industrial.
- (E) *Planned Unit Development (PUD)*.
- (F) *Planned Residential Development (PRD)*.

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.401.2, passed 9-3-13; Am. Ord. 2015-10-550, passed 10-6-15)

§ 153.046 RESIDENTIAL DISTRICTS.

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

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

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

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal – domestic or household	Adult day care	Animal – farm (§ 153.092)
Chicken, hobby (§ 153.100)	Apiculture (§ 153.093)	Building, accessory – nonresidential (§ 153.090)
Child care – residential (4 children) (§ 153.096(A))	Aquarium	Dwelling – accessory (§ 153.091)
Community garden	Cell towers (§ 153.116)	Solar energy system (§ 153.113)
Dwelling – single family	Cemetery or mausoleum	Wind energy system, small (§ 153.115)
Farm animals for show, breeding, raising, and training	Child care – commercial (§ 153.096(C))	
Fire station		
Greenhouse	Community center (§ 153.099)	

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

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

<i>Permitted Uses</i>	<i>Conditional Uses</i>	<i>Accessory</i>
Animal – domestic or household	Adult day care	Animal – farm (§ 153.092)
Child Care – residential (4 children) (§ 153.096(A))	Apiculture (§ 153.093)	Building, accessory – nonresidential (§ 153.090)
Community garden	Aquarium	Dwelling – accessory (§ 153.091)
Dwelling – single family	Bed and breakfast	Solar energy system (§ 153.113)
Farm animals for show, breeding, raising and training	Cell towers (§ 153.116)	Wind energy system, small (§ 153.115)

Fire station	Cemetery or mausoleum	
Library	Chicken, hobby (§ 153.100)	
Park – mini	Child care – commercial (§ 153.096(C))	
Park – neighborhood	Community center (§ 153.099)	
Reservoir, wet or dry detention	Country club	
Utility facilities	Educational facility	
Water and wastewater treatment/storage facility	Golf course (§ 153.097)	
Watershed conservation or flood control	Group homes for developmentally disabled	
	Home occupation (§ 153.101)	
	Museum	
	Public safety services	
	Real estate sales office	
	Religious facilities (§ 153.108)	
	Temporary uses	
	Utility facility	

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

(a) Such a district shall encourage and maintain Single Family-Low Density Residential at appropriate locations.

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

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

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

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

	Museum	
	Public safety services	
	Religious facilities (§ 153.108)	
	Temporary uses	
	Utility facility	

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

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

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

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

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

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

(C) *Residential bulk and area requirements.*

(1) *Density.*

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

(2) *Lot and area requirements.*

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

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

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

(d) (Reserved)

(e) *Standards.*

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

(3) *Minimum setback requirements.*

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

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

(c) *Standards (in feet).*

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

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

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

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

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

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

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

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

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

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

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

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

and the requirements of the zoning district in which the manufactured home is to be replaced, the stricter requirements shall apply.

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

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.401.7, passed 9-3-13; Am. Ord. 2014-12-489, passed 12-2-14; Am. Ord. 2015-04-523, passed 4-7-15; Am. Ord. 2015-10-550, passed 10-6-15)

