

ORDINANCE NO. 2019-03-837

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING SECTION 153.021 DEFINITIONS OF TERMS AND USES AND SECTION 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED 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 153.021 DEFINITIONS OF TERMS AND USES and Section 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED of the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.021 DEFINITIONS OF TERMS AND USES and Section 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED 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 153.021 DEFINITIONS OF TERMS AND USES and Section 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED 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 153.021 DEFINITIONS OF TERMS AND USES and Section 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED 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.

## Exhibit "A"

### § 153.021 DEFINITIONS OF TERMS AND USES.

This section contains definitions of general terms used throughout the text. It also contains definitions for the uses identified in the text. The use definitions are intended to be mutually exclusive, which means that uses that are specifically defined shall not also be considered a part of a more general definition of that use. The use "retail/service," for example, does not include the more specific use "convenience store."

**ACCESS EASEMENT.** A right-of-way or parcel of land specified or set aside as the way or means by which a piece of property is approached or entered, given by the owner of land to another party.

**ACCESSORY BUILDINGS AND USES.** A subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principal use of land and buildings. Accessory buildings and uses are located on the same lot and in the same zoning district as the principal use.

**ADULT ENTERTAINMENT.** Any adult cabaret, adult theater, adult bookstore, adult massage establishment, model studio, or sexual encounter or meditation center which depicts or describes matters or activities relating to specified sexual activities or specified anatomical areas.

**AGRICULTURE, CROP.** The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products.

**AGRICULTURE, ANIMAL.** The use of any land for the purpose of raising livestock.

**AGRICULTURE, PRODUCT SALES.** The retail sale of agricultural products produced on the same site.

**ALLEY.** A narrow public way, not in excess of 20 feet, which affords a secondary means of access to abutting properties, and not intended for general traffic circulation.

**ANIMAL CARE, GENERAL.** A use providing animal care, veterinary services or boarding.

**ANIMAL CARE, LIMITED.** A use providing small animal (household pet) boarding or veterinary services, with no outside runs.

**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.

**APARTMENT.** A room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three or more dwelling units are considered apartments.

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

**AS-BUILT DRAWING.** A document showing how a particular building and/or site have been constructed.

**ASPHALT OR CONCRETE PLANT.** An establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphalt cement, cement or concrete products.

**AUDITORIUM OR STADIUM.** An open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings.

**AUTO WRECKING OR SALVAGE YARD:** A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition, or for the sale of parts there from; or for the collecting, storage, and salvage of waste paper, scrap metal, or other discard material.

**BANK OR FINANCIAL INSTITUTION.** Establishments engaged in deposit banking; typically, commercial banks, savings and loans, and credit unions.

**BASIC INDUSTRY.** The first operation or operations that transform a material from its raw state to a form suitable for fabrication.

**BED AND BREAKFAST.** The use of an owner-occupied or manager-occupied residential structure to provide temporary lodging, or lodging and meals, with no more than 12 guest rooms.

**BUILDING.** Any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable.

**BUILDING HEIGHT.** The vertical distance from grade plane to the average height of the highest roof surface.

**BUILDING LINES.** The lines that are parallel to the front, side, or rear lot lines of a lot at a distance equal to the minimum setback requirements, and beyond which the vertical wall of a building or structure shall not be located closer to said lot lines.

**BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the plot on which it is situated. In any residential district, any structure containing a dwelling unit shall be deemed to be the principal building on the plot on which the same is situated.

**CARPORT.** Space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

**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.

**CEMETERY.** Land used, or intended to be used, for burial of the dead, whether human or animal, including a mausoleum, columbarium or cinerarium.

**CERTIFICATE OF OCCUPANCY.** Permission to occupy a building and/or property.

**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.

**CHURCH.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, including day cares, is maintained and controlled by a religious body organized to sustain public worship.

**CLUB or LODGE.** An association of persons for the promotion of some nonprofit common purpose, such as charity, literature, science, politics, fellowship, etc., meeting periodically, and limited to members.

**COLLEGE OR UNIVERSITY.** An institution of higher education offering undergraduate or graduate degrees.

**COMPREHENSIVE PLAN.** The City of Tontitown 2005 Comprehensive Land Use Plan.

**CONSTRUCTION SALES AND SERVICE.** An establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, and construction and trade contractor storage yards.

**CONVENIENCE STORE.** An establishment, not exceeding 3,500 square feet of gross floor area, serving a limited market area, and engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use, and which may specifically include a car wash as an accessory use.

**COUNTRY CLUB.** A chartered, nonprofit membership club catering primarily to its membership, providing one or more of the following social and recreational activities: golf, tennis, swimming, riding, or outdoor recreation. Such clubs typically include dining facilities, clubhouses, locker rooms, and pro shops.

**DAY CARE, GENERAL (DAY CARE CENTER).** A commercial establishment where adult day care services are provided, or where child day care services are provided for more than eight children; with both such services to be provided pursuant to state laws and fire codes, and in accordance with, and licensed by appropriate state agencies.

**DAY CARE, LIMITED (DAY CARE FAMILY HOME).** A home where day care services are provided to a maximum of eight children, with a maximum of two adults in attendance. The operator shall reside in the structure, and the facility must conform to all codes and regulations, both state and local, applicable thereto, with the most restrictive regulations prevailing. The babysitting of not more than four children shall not be subject to provisions of these regulations.

**DETACHED STRUCTURE.** A structure having no party or common wall with another structure except an accessory structure.

**DEVELOPMENT.** The act of changing the state of a tract of land after its function has been purposefully changed by man; including, but not limited to, structures on the land and alterations to the land. **DEVELOPMENT** does not include:

(1) Lawn and yard care, including mowing, gardening, tree care, and maintenance of landscaped areas;

(2) Removal of trees or vegetation damaged by natural forces; or

(3) The repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover.

**DEVELOPMENT or SITE PLAN.** A dimensioned presentation of the proposed development of a specified parcel of land that reflects thereon the location of buildings, easements, parking arrangements, public access, and other similar and pertinent features.

**DISTRICT, ZONING.** Any portion or section of the city within which uniform zoning regulations

apply.

**DRIVE-IN ESTABLISHMENTS.** A facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

**DWELLING.** A building or portion thereof which is designed or used as living quarters for one or more families; but not including motels, boardinghouses, tourist homes, convalescent homes, travel trailers, mobile homes, or manufactured housing.

**DWELLING, ATTACHED.** A dwelling that is joined to another dwelling at one or more sides by a wall or walls.

**DWELLING, DETACHED.** A dwelling that is entirely surrounded by open space on the same lot.

**DWELLING, MULTI-FAMILY.** A dwelling designed for or occupied by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

**DWELLING, SINGLE-FAMILY.** A dwelling designed for or occupied by one family only, and being on a permanent foundation. A single-family dwelling may not have more than two adults residing in the dwelling per established bedroom and may include minor children.

**DWELLING, TWO-FAMILY (DUPLEX).** A dwelling designed for or occupied by not more than two families living independently of each other.

**DWELLING, TOWNHOUSE or ROW HOUSE.** Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and owned by one family.

**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.

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

**EFFICIENCY UNIT.** A dwelling unit that contains living, sanitation, sleeping, and cooking facilities, but not a separate bedroom for sleeping, for not more than two adults.

**EMERGENCY HOUSING UNIT.** A manufactured housing unit or residential-design manufactured housing unit that is located on the same lot as a principal single-family dwelling to be used solely for the purpose of providing temporary accommodations for a family member in need of daily assistance due to health reasons. Such reasons shall be certified by a licensed physician.

**FAMILY.** One or more persons related by blood, marriage or adoption, or a group of not more than five unrelated persons living together and subsisting in common as a single, non-profit housekeeping unit utilizing only one kitchen. A family may include domestic servants employed by said family. A single-family dwelling may not have more than two adults residing in the dwelling per established bedroom and may include minor children.

**FARM.** A parcel of land used for the growing or raising of agricultural products including related structures thereon.

**FENCE.** A barrier constructed to provide privacy or visual separation between one ownership and another.

**FLOODPLAIN REGULATIONS.** Provisions of the City of Tontitown Flood Damage Prevention Code.

**FLOOR AREA, GROSS.** The floor area within the inside perimeter of the exterior walls of the building under consideration, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

**FLOOR AREA, NET.** The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

**FREIGHT TERMINAL.** A building or area in which freight, brought by motor trucks or rail, is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

**FRONTAGE.** That edge of a lot bordering a street.

**GARAGE, PRIVATE.** An accessory building or a part of a main building used for storage purposes only for automobiles, vans, pick-up trucks and the like, used solely by the occupants and their guests of the building to which it is accessory.

**GOLF COURSE.** A facility providing private or public golf recreation services and support facilities, excluding miniature golf facilities.

**GOVERNMENT SERVICES.** Buildings or facilities owned or operated by government entities and providing services for the public, excluding utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.

**GREENHOUSE or NURSERY.** An establishment primarily engaged in the raising and retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.

**GROUP RESIDENTIAL.** The use of a site for occupancy by groups of more than five persons, not defined as a family. Typical uses include residence halls, and boarding or lodging houses.

**HAZARDOUS WASTE.** Any solid, liquid, semisolid, or gaseous waste, whether alone or in combination, whether used, reused or reclaimed, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality, or an increase in serious irreversible, or incapacitating reversible, illness, or which may pose a substantial present or potential hazard to human health or the environment.

**HOME OCCUPATION.** Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, which is conducted entirely within the main building, and which meets all other applicable standards and use limitations as described herein.

**HOSPITAL.** An institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training and research facilities, central service facilities, pharmacies, and staff offices which are an integral part of the facilities.

**HOTEL OR MOTEL.** An establishment where overnight accommodations are supplied for transient guests. Typical accessory uses include dining, swimming, and meeting facilities.

**KENNEL.** The use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both, or the keeping of more than five dogs and cats. The word "selling" as herein used shall not be construed to include the sale of animals three months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over three months old by persons not operating a kennel as herein described.

**LIBRARY.** A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

**LOT.** Land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory building, and the open spaces and parking spaces required herein; and having its principal frontage upon a street

**LOT, AREA.** The total horizontal area of a lot lying within the lot lines.

**LOT, CORNER.** A lot abutting two or more streets at their intersection.

**LOT, DOUBLE FRONTAGE.** A lot that is an interior lot extending from one street to another and abutting a street on two ends.

**LOT, INTERIOR.:** Any lot which is not a corner lot.

**LOT LINES.** The boundary lines of a lot.

**LOT LINE, FRONT.** In the case of an interior lot, the line separating said lot from that street which is designed as the front street in the request for a building permit.

**LOT LINE, REAR.** The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line as defined herein.

**LOT OF RECORD.** A lot that is a part of a subdivision, the plat of which has been recorded in the office of the Washington County Circuit Clerk.

**LOT WIDTH.** The width of a lot measured at the front building setback line.

**MANUFACTURED HOUSING UNIT.** A detached single-family housing unit fabricated 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. For purposes of these regulations, the term **MANUFACTURED HOUSING UNIT**, when used by itself, shall not mean the same as a "residential-design manufactured housing unit."

**MANUFACTURED HOUSING UNIT, RESIDENTIAL-DESIGN.** A manufactured housing unit which has a minimum width of 24 feet, with width measured perpendicular to the longest axis at the narrowest part, a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with all of the standards specified herein.

**MANUFACTURED HOUSING PARK.** A tract of land in one ownership that is used or intended to be used by two or more manufactured housing units, and which has public sanitary sewer facilities, public water, electricity, and other utilities available.

**MANUFACTURING, GENERAL.** An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding "basic industry."

**MANUFACTURING, LIMITED.** An establishment primarily engaged in the on-site production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced on-site.

**MEDICAL SERVICE.** An establishment providing therapeutic, preventative, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other licensed practitioners, as well as the provision of medical testing and analysis services.

**MINING or QUARRYING.** The extraction of metallic and nonmetallic minerals, including stone, sand, and gravel operations.

**MOBILE HOME.** A transportable, factory-built housing unit, fabricated prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974.

**NONCONFORMING STRUCTURE.** A structure, or portion thereof, lawfully existing at the time these regulations became effective, or as amended, which does not comply with the setback, height, or other development standards applicable in the district in which the structure is located.



**NONCONFORMING USE.** Any structure or land lawfully occupied by a use at the time these regulations, or any amendment thereto, became effective, which does not conform to the use or area regulations of the district within which it is located.

**NURSING HOME.** Any premises where more than three persons are housed and furnished with meals and continuing nursing services.

**OFFICE, GENERAL.** An establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

**OPEN SPACE, COMMON.** The area of land that is designed to be accessible for the use and enjoyment of all owners and/or tenants. This space may contain complementary structures, recreational areas and other such improvements, but shall not include parking lots or streets.

**OPEN SPACE, PRIVATE.** An area of land owned or occupied by a property owner or tenant and available for their private use and enjoyment.

**OWNER.** The property owner of record, according to the office of the Washington County Circuit Clerk.

**PARKING, COMMERCIAL.** A paved area for off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal use.

**PARKS AND RECREATION.** A park, playground, open space, or facility, open to the general public and reserved for active or passive recreational activities.

**PEDESTRIAN WAY.** A separate right-of-way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land to facilitate pedestrian access to adjacent streets and properties.

**PRINCIPAL BUILDING.** The building on a lot in which the principal use of the lot is conducted. Principal use: The chief or main recognized use of a structure or of land.

**RECREATION AND ENTERTAINMENT, INDOOR.** An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, and that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, pool halls and video game arcades.

**RECREATION AND ENTERTAINMENT, OUTDOOR.** An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, and miniature golf courses.

**RECREATIONAL VEHICLE PARK.** The use of a site providing individual spaces for towed or self-propelled camping vehicles on a daily fee or short-term rental basis.

**RESEARCH SERVICE.** An establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full

investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

**RESTAURANT, FAST-FOOD.** An establishment where the principal business is the sale of food and non alcoholic beverages in a ready-to-consume state, and where the design or principal method of operation is that of a fast-food or drive-in-style restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in an automobile.

**RESTAURANT, GENERAL.** An establishment, other than "fast-food restaurant," where the principal business is the sale of food and beverages in a ready-to-consume state, where there is no service to a customer in an automobile, and where the design or principal method of operation consists of one or more of the following: (1) a sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or (2) a cafeteria or cafeteria-type operation where food and beverages generally are served in non-disposable containers and consumed within the restaurant.

**RETAIL/SERVICE.** The sale or rental of commonly used goods and merchandise for personal or household use or the provision of services to consumers, excluding those retail and service uses classified more specifically herein. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, electronics repair, shoe repair, household appliances, wallpaper, carpeting and floor-covering, art supplies, kitchen utensils, jewelry, drugs, laundromats, dry cleaners, cosmetics, books, antiques, or automotive parts and accessories.

**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) **SALVAGE/JUNK/WRECKER YARD** shall not include premises on which such uses are conducted entirely within a completely enclosed building, nor shall a **JUNK OR SALVAGE OR WRECKER 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 90 days. Any premises on which there remains outside more than 90 days an inoperable, partially dismantled, wrecked, or junked automobile, shall be deemed for the purpose of this chapter, a **JUNK OR SALVAGE OR WRECKER YARD**.

**SAFETY SERVICES.** A facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

**SCHOOL, ELEMENTARY, MIDDLE, or HIGH.** The use of a site for instructional purposes on a primary or secondary level.

**SERVICE STATION.** An establishment primarily engaged in the retail sale of gasoline or other motor fuels, that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, or the minor adjustment or minor repair of motor vehicles.

**SETBACK.** The distance from the building line to the lot line or the proposed right-of-way line, whichever is nearer.

**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 firm, an association, a corporation, a profession, a business, a service or a commodity or product, which are visible from any public street or right-of-way and designed to attract attention. A **SIGN** shall not include such devices located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city, or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

**SIGN, BULLETIN.** A sign erected by a church, school, institution, or public agency on its premises for announcements.

**SIGN, COMMERCIAL.** A sign which directs attention to a service, product, profession, business, or entertainment conducted, sold, or offered on the same lot.

**SIGN, NAMEPLATE.** A sign bearing the name and/or address, occupation, and phone number of persons or uses occupying the premises.

**SIGN, OFFICIAL.** Signs on public property for informing the public.

**SIGN, OFF-PREMISE.** A sign that directs attention to a business, profession, event, entertainment, product, or service that is located, offered or sold somewhere other than on the premises.

**SIGN, REAL ESTATE.** Temporary signs advertising the premises for lease, rent or sale.

**STORAGE YARDS.** Outdoor areas used for storage of outdoor construction equipment and materials, salvage, items for retail and wholesale sales, etc. All vehicles stored outside must be currently licensed.

**STORY.** The horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

**TOWING/VEHICLE IMPOUND YARD.** Premises used primarily for the storage of operable automobiles or wrecked vehicles until they are placed back in the control of the owner and/or insurance company, so long as no operable automobile, inoperable junk or wrecked automobile remains on site for more than 90 days.

**USE.** Any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

**UTILITY, MAJOR.** Generating plants, electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, communication, rail transportation, water, sewage collection or other similar service. The term **UTILITY** shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; or other uses defined herein.

**UTILITY, MINOR.** Services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

**VEHICLE AND EQUIPMENT SALES.** An establishment engaged in the retail sale or rental, from the premises, of motorized vehicles, along with incidental service or maintenance. Typical uses include automobile and truck sales, automobile rental, boat sales, and motorcycle sales. These provisions do not apply to machinery used for agriculture purposes.

**VEHICLE REPAIR, GENERAL.** An establishment primarily engaged in painting of, or bodywork to, motor vehicles or heavy equipment. Typical uses include paint and body shops.

**VEHICLE REPAIR, LIMITED.** An establishment primarily engaged in automotive repair other than paint and body shops.

**VOCATIONAL SCHOOL.** A use providing education or training in business, commercial trades, language, arts, or other similar activity or occupational pursuit, and not otherwise defined as a "college or university" or "primary or secondary school."

**WAREHOUSE, RESIDENTIAL STORAGE (MINI-WAREHOUSE).** An enclosed storage facility containing independent, separate units or cubicles that are intended to be leased to persons exclusively for dead storage of their household goods or personal property. The active utilization of any storage space or cubicle within such a storage area for a retail or wholesale business operation is expressly prohibited.

**WAREHOUSING.** The storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include truck terminals, major mail distribution centers, frozen food lockers, motor freight terminals, and moving and storage firms, but excluding "residential storage warehouses."

**WELDING OR MACHINE SHOP.** A workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine, welding, and sheet metal shops.

**YARD.** An open space on the same lot with a building, unobstructed from the ground upward, and measured as the minimum horizontal distance between the lot line and the main building.

**YARD, FRONT.** A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street right-of-way line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

**YARD, REAR.** A yard extending across the rear of the lot between the side lot lines, and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entranceways.

**YARD, SIDE.** A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

(Ord. 2017-05-635, passed 5-2-17; Am. Ord. 2017-12-669, passed 12-5-17)

**§ 153.083 COMMERCIAL AND INDUSTRIAL USES PERMITTED.**

(A) Use permitted in the foregoing districts are set forth in the following table. Where the letter "P" appears opposite a listed use and underneath a district, the use is permitted in that district "by right" subject to: (1) providing off-street parking and loading facilities as required by § 153.210; (2) providing landscaping and screening as required by § 153.210; and (3), conformance with special conditions applying to certain uses as set forth in § 153.160 et seq. Commercial uses must be screened from more restrictive uses.

(B) Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in §§ 153.120 et seq. Where neither "P" nor "C" appears within the table, and "NP" appears, the use is not permitted.

(C) *Uses not listed.* When a use is proposed that is not listed in this chapter, the Building Official shall recommend the appropriate districts based on land uses that are similar in size, bulk, and traffic generation. If the applicant does not agree with this interpretation, he or she may appeal the interpretation to the Board of Zoning Adjustment.

<i>Zoning Districts</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
<b><i>Residential uses</i></b>			
Single-family detached	C	C	C
Duplex, triplex, 4-plex	C	C	C
Loft apartment	C	C	C
Multi-family	C	C	C
<b><i>Civic and commercial uses</i></b>			
Airport or airstrip	NP	NP	C
Animal care, general	C	P	C
Animal care, limited	P	P	NP
Auditorium or stadium	NP	C	C
Automated teller machine	P	P	P
Bank or financial institution	P	P	P

Bed and breakfast	P	P	NP
Car wash	C	P	P
Cemetery	P	P	P
Church	P	P	P
College or university	P	P	P
Communication tower	C	C	P
Construction sales and service	NP	P	P
Convenience store	P	P	C
Day care, limited (family home)	P	P	C
Day care, general	P	P	C
Entertainment, adult	NP	C	C
Funeral home	C	P	NP
Golf course	P	P	NP
Government service	P	P	P
Hospital	P	P	NP
Hotel or motel	NP	P	NP
Library	P	P	P
Medical service/office	P	P	P
Museum	P	P	C
Nursing home	P	P	NP
Office, general	P	P	C
Parking lot, commercial	NP	P	C
Parks and recreation	P	P	C
Pawn shops	NP	P	C
Post office	C	P	C
Recreation/entertainment, indoor	C	P	C
Recreation/entertainment, outdoor	C	P	C
Restaurant, fast food	C	P	P
Restaurant, general	P	P	P
Retail/service	C	P	C
Safety services	P	P	P
School, elementary/middle and high	P	P	P
Service station	C	P	P
Signs	*	*	*

Tow Yard/Impound Yard	NP	C	P
Utility, major	C	C	C
Utility, minor	P	P	P
Vehicle and equipment sales	NP	P	P
Vehicle repair, general	NP	P	P
Vehicle repair, limited	C	P	P
Vocational school	C	P	P
Warehouse, residential (mini) storage	NP	C	P
<b>Industrial, manufacturing and extractive uses</b>			
Asphalt or concrete plant	NP	NP	C
Auto wrecking or salvage yard	NP	NP	C
Basic industry	NP	NP	P
Freight terminal	NP	C	P
Manufacturing, general	NP	NP	P
Manufacturing, limited	NP	NP	P
Mining or quarrying	NP	NP	C
Research services	C	C	P
Warehousing	NP	NP	P
Welding or machine shop	NP	C	P
<b>Agricultural uses</b>			
Agriculture, animal	NP	C	P
Agriculture, crop	P	P	P
Agriculture, farmers' market	C	P	P
Agriculture, product sales	NP	C	P
Animal, farm	NP	NP	NP
Chicken, hobby	NP	NP	NP


\* The placements of all signs shall be in accordance with city code.

(Ord. 2017-05-635, passed 5-2-17; Ord. 2017-12-669, passed 12-5-17)

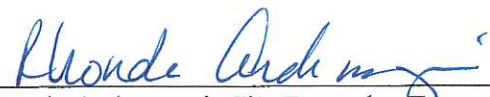
**Section 3. Declaration of Emergency.** It is hereby found and determined that Section 153.021 DEFINITIONS OF TERMS AND USES and Section 153.083 COMMERICAL AND INDUSTRIAL USES PERMITTED of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety 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 5<sup>th</sup> day of March 2019.

**APPROVED:**

  
\_\_\_\_\_  
Paul Colvin, Jr., Mayor

**ATTEST:**

  
\_\_\_\_\_  
Rhonda Ardemagni, City Recorder-Treasurer  
(SEAL)