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Washington County, AR
Kyle Sylvester Circuit Clerk

ORDINANCE NO. 2019-05-841 File 2019-00013946

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY IN ORDER TO CLARIFY AND AMEND REQUIREMENTS WITHIN THE CITY OF TONTITOWN; FOR OTHER PURPOSES AND DECLARING AN EMERGENCY

WHEREAS, on or about May 2, 2017, the City Council of Tontitown adopted Ordinance No. 2017-05-635 to clarify and amend requirements for landscaping, screening, fencing and buffering requirements for new residential, multi-family residential, commercial and industrial developments within the city and said Ordinance No. 2017-05-635, 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 Ordinance No. 2017-05-635 and the Tontitown Municipal Code Section 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING in its entirety to clarify and amend landscaping, screening, fencing and buffering requirements and to provide a reasonable and appropriate fee for the acquisition, maintenance and improvement of park and trails; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING 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 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING 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 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

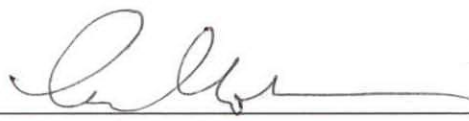
Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided 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.

9D)

Section 3. Declaration of Emergency. It is hereby found and determined that Section 153.212 LANDSCAPING, SCREENING, FENCING AND BUFFERING of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety in clarify and amend landscaping, screening, fencing and buffering requirements for new residential, multi-family residential, commercial and industrial developments within the City of Tontitown and to provide a reasonable and appropriate fee for the acquisition, maintenance and improvement of park and trails. 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 7th day of May, 2019.

APPROVED:



Paul Colvin, Jr., Mayor

ATTEST:



Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

AMENDED CODE:

LANDSCAPING, SCREENING, FENCING AND BUFFERING

153.212 PURPOSE.

The purpose of this subchapter is to ensure a minimum of open space and green area as an integral part of new development and to protect the health and welfare of its citizens through the regulation of landscaping of new residential, multi family residential, commercial, and industrial developments.

- (A) Landscaping enhances the environmental and visual character of the community.
- (B) Green space requirements preserve and stabilize the area's ecological balance by establishing a healthier environment.
- (C) Green areas help to mitigate the negative effects of air and noise pollution by using plants as buffers, and slow and reduce storm water runoff.
- (D) Fencing and landscaping provides visual screening and buffering, and screens between incompatible land uses.
- (E) Landscaping enhances parking lots.
- (F) Greenspace requirements can establish parks and other outdoor amenities for the citizens of Tontitown.

153.xxx OBJECTIVES.

Landscaping and screening should be an integral part of a development. This subchapter is designed to promote high quality developments, protect property values and public investment in our community. Objectives of this chapter include, but are not limited to, the following:

- (A) To moderate the effects of the sun, wind, and temperature changes.
- (B) To filter pollutants from the air and release oxygen.
- (C) To stabilize soil and prevent erosion.
- (D) To encourage preservation of desirable trees.
- (E) To provide buffering between different uses and developments.

153.xxx APPLICABILITY.

The requirements of this chapter shall apply to:

- (A) New Development. All new public, private, and institutional developments.
- (B) New parking lots or the expansion of existing parking lots in any zone which increases the parking to sixty (60) or more spaces, or to parking lots with fewer than sixty (60) spaces, when the Planning Board deems necessary for improved control and safety of pedestrians.
- (C) Additions. All additions to existing buildings.

153.xxx EXEMPTIONS.

- (A) Any individual who purchase, builds, or remodels a single-family home located in any zoning district is exempted from all requirements of this ordinance.
- (B) *Existing development.; changes in use.* Improvements or repairs to existing developments that do not result in an increase in floor area, and changes in use that do not result in an increase in intensity, shall also be exempt from all standards of this section.

153.xxx GENERAL PROVISIONS.

- (A) Sight distances. Safe sight distances at intersection and points of access must be maintained. No landscaping shall constitute a hazard to traffic including, but not limited to landscaping located within the sight triangle of an intersection.
- (B) Replacement. Vegetation planted or preserved according to an approved plan shall remain alive for a minimum of three years form date of Certificate of Occupancy. Vegetation that is planted or preserved that does not remain alive for three years shall be replaced with equivalent vegetation. Preserved trees for which credit was awarded, but which subsequently die, shall be replaced according to the Tree Preservation Credits Table.
- (C) Irrigation. Required landscaping shall be irrigated by one of the following methods:
 - 1. Underground sprinkler system
 - 2. Automatic drip system
 - 3. Hose bib attachment within 100 feet of all landscaped areas.
- (D) *Artificial plants*. No artificial plants or vegetation shall be used to meet any standards of this section, unless expressly approved by the Planning Board.
- (E) Street trees are the only required landscaping that may be planted in the Right-of-Way.
- (F) *Planting areas*. Planting areas that contain trees shall be at least seven feet wide and protected by raised curbs to prevent damage by vehicles when in, or adjacent to, parking or drive aisles.
- (G) *Dumpster screening*. Dumpsters located in any district shall be completely screened from view on all sides by a fence or wall with a minimum height of six feet, or one foot taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster from all sides, and be compatible in material and color with the principal structure on the lot. All dumpsters shall have a secured top to prevent materials from blowing out.

153.xxx LANDSCAPE PLANS.

- (A) The landscaping plan is required to address the following requirements:
 - 1. Street trees
 - 2. Landscape street frontage buffer
 - 3. Interior parking lot landscaping
 - 4. Perimeter landscaping
- (B) The following information is required on landscape plans and shall be completed by a landscape architect or landscape professional in order for staff to review for compliance.
 - 1. Existing vegetation. Location, general type and quality of existing vegetation, including trees on site.
 - 2. Preservation. Existing vegetation to be saved.
 - 3. Protection. Methods and details for protecting existing vegetation during construction and approved sediment control plan.
 - 4. Proposed Plants. Location and labels for all proposed plants.
 - 5. Landscape details. Plant list with botanical and common names, quantity, spacing and size of all proposed landscape improvements such as earth berms, walls,

fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.

6. Installation details. Planning and installation details as necessary to ensure conformance with all required standards.
7. Sight triangle. The sight triangle shall be indicated on the plan with dimensioned shaded area.
8. Irrigation. The plans shall indicate the type of irrigation to be used. If a hose bib is proposed, the location shall be shown on the plan.
9. Three-year guarantee. Guarantee from the developer that all plant materials will be warranted for a period of three years from the time of installation. If any material should fail to survive during that period, it would be replaced during the appropriate planting season.

153.xxx STREET TREES.

Per the adopted street sections, street trees are required within the greenspace between the road and sidewalk. Street trees are the only required landscaping that may be planted in the Right-of-Way.

- (A) Purpose. Street trees provide a key piece to Complete Streets along with sidewalks, trails, and appropriate pedestrian connections. They help shape and define street corridors.
- (B) Minimum Trees Required. One street tree for every 30 linear feet is required. Adjustments can be approved when the street is located in a residential subdivision for siting driveways or on-street parking. Any adjustments shall be approved by the Planning Board.

153.xxx LANDSCAPED STREET FRONTAGE BUFFER.

The street frontage buffer is the planting area parallel to the public street ROW.

- (A) Purpose. The landscaped street frontage buffer serves one primary purpose:
 1. Provides an aesthetically pleasing transition from the public ROW to private property.
- (B) Prohibitions. Parking, merchandise display and off-street loading are prohibited in the landscaped street frontage buffer.
- (C) Exemptions. Single-Family Residential and Residential Duplex subdivisions are not required to provide a Landscaped Street Frontage Buffer.
- (D) Buffer options-Commercial/Institutional. The site plan for any development, other than is exempt, shall show a landscaped street frontage buffer along all public ROW. The applicant may choose a combination of options below.
 1. Ten-foot buffer strip-minimum 10 feet wide
 - a. Minimum number of shrubs. Five shrubs/small trees per 30 linear feet of street frontage. A minimum of 50 % of shrubs/small trees shall be evergreen. Preference for grouping.
 - b. Sight visibility must be maintained.
 2. Earth berm

- a. Minimum height. Two and one-half feet higher than the finished elevation of the parking lot.
- b. Minimum number of shrubs/small trees. Three shrubs/small trees per 30 linear feet of street frontage. A minimum of 50 % of shrubs/small trees shall be evergreen. Preference for grouping.
- c. Sight visibility must be maintained.

(E) Buffer options-Multi Family Residential.

- 1. Multi-Family Residential developments shall be required to have perimeter fencing for the entire development.
 - a. A perimeter fence shall be provided between the development and other uses in order to provide privacy and separation. This must be approved with the development plan and shall conform to all fence regulations.
 - b. Vehicular Access. The perimeter fencing requirement does not preclude the need for vehicular access to be provided for future connectivity.
 - c. A decorative fence shall be required along public streets that are classified as Collectors or above. This shall consist of a durable (not a wood privacy fence) material. Wrought Iron fencing is preferred. Additionally, this fence shall be planted with a minimum of five small trees per 30 linear feet of street frontage within a minimum 10-foot buffer strip. All plant material shall be evergreen. Preference for grouping.
 - d. Different phases of the same development are not required to be separated.
 - e. Sight visibility must be maintained.

(F) Buffer options-Industrial. The site plan for any development, other than is exempt, shall show a landscaped street frontage buffer along all public ROW. The applicant may choose a combination of options below.

- 1. Ten-foot buffer strip-minimum 10 feet wide
 - a. Minimum number of shrubs. Five shrubs/small trees per 50 linear feet of street frontage. A minimum of 50 % of shrubs/small trees shall be evergreen. Preference for grouping.
 - b. Sight visibility must be maintained.
- 2. Earth berm
 - a. Minimum height. Two and one-half feet higher than the finished elevation of the parking lot.
 - b. Minimum number of shrubs/small trees. Three shrubs/small trees per 50 linear feet of street frontage. A minimum of 50 % of shrubs/small trees shall be evergreen. Preference for grouping.
 - c. Sight visibility must be maintained.

153.xxx INTERIOR PARKING LOT LANDSCAPING

Interior parking lot landscaping is the planting area within and adjacent to parking areas.

(A) Purpose. The interior parking lot landscaping:

1. Provides necessary green space to give relief to expansive parking areas with nothing but asphalt.
 2. Trees provide shade and serve as windbreaks.
 3. Planting islands assist with vehicular circulation.
- (B) Applicability. Interior parking lot landscaping requirements apply to new parking lots or the expansion of existing parking lots in any zone which increases the parking to sixty (60) or more spaces, or to parking lots with fewer than sixty (60) spaces, when the Planning Board deems necessary for improved control and safety of pedestrians.
- (C) Exemptions. Parking lot landscaping shall not apply to multi-level parking structures, or areas devoted to drive-thru lanes.
- (D) Requirements. The site plan shall show interior parking lot landscaping.
1. Planting islands are required for every 15 parking spaces.
 - a. The minimum dimensions of a planting island are 9 feet by 18 feet and must be curbed to protect plantings. Each island shall have a minimum of two small trees, or one large tree.
 - b. Groundcover. All interior parking lot landscaped areas shall be landscaped with groundcover.
 - i. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the interior parking lot landscaping.
 - ii. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.
 - iii. Non organic material may be approved if the parking lot landscaping area functions as a bio swale. Any adjustments shall be approved by the Planning Board.
- (E) Vehicle and equipment sales lots or storage areas. Applicants shall select one of the following options for vehicular and equipment sales lots or storage areas.
1. Compliance with standard. Comply with the interior parking lot landscaping requirements and the required street frontage requirements.
 2. Increase street frontage buffer. In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to 15 feet wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.

153.xxx INTERIOR SITE LANDSCAPING

Interior site landscaping is immediately adjacent to the front of buildings.

- (A) Purpose. The interior parking lot landscaping:
1. Provides necessary green space to enhance and soften the transition from parking lot to the building.
 2. Provides pedestrian friendly spaces.
- (B) Exemptions. Single-Family Residential and Residential Duplex subdivisions are not required to provide Interior Site Landscaping.
- (C) Commercial and Institutional -Interior Site Landscaping-Shrubs, perennial plants, or other vegetation in curbed planting beds or raised planters to span a minimum of 25% of the building frontage. Planters are encouraged be arranged to create outdoor seating opportunities. At least one large tree or two small trees per unit/suite is required.
1. Living materials shall make up 80% of the curbed planting beds or raised planters.

2. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.
- (D) Multi-Family Residential -Interior Site Landscaping- A minimum of 7 shrubs, perennial plants, or other vegetation in planting beds or raised planters per unit are required. Planters are encouraged be arranged to create outdoor seating opportunities. Grouping is preferred. At least one large tree or two small trees per every 10 units is required. Grouping is preferred.
1. Living materials shall make up 80% of the planting beds or raised planters.
 2. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.
- (E) Industrial -Interior Site Landscaping-Shrubs, perennial plants, or other vegetation in planting beds to span a minimum of 15% of the building frontage. At least one large tree or two small trees shall be required every 200 linear feet within the planting beds.
1. Living materials shall make up 80% of the curbed planting beds or raised planters.
 2. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.
 3. Non organic material may be approved if the building landscape functions as a bio swale. Any adjustments shall be approved by the Planning Board.

153.xxx LANDSCAPED PERIMETER BUFFER.

Perimeter landscaping is a peripheral planting strip along rear and side lot lines that separates uses.

- (A) Purpose. Perimeter landscaping:
1. Defines parking areas
 2. Prevents two adjacent lots from becoming one large expanse of pavement.
 3. Provides protection for residential uses and other marginally compatible uses.
 4. Provides vegetation is densely developed areas; and
 5. Enhances the appearance of individual properties.
- (B) Requirement. The site plan for any development, shall show perimeter landscaping, in addition to the landscaped street frontage buffer required.
1. Width. A five-foot landscaped strip is required along the side and rear lots lines of a development.
 2. Minimum number of trees. One large tree, or two small trees per every 50 feet.
 3. Groundcover. All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
 - a. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the perimeter landscaping.
 - b. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.
 - c. Non organic material may be approved if the perimeter landscaping area functions as a bio swale. Any adjustments shall be approved by the Planning Board.
- (C) Vehicular Access. The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.
- (D) Adjacent properties. The five-foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.

- (E) Pavement. No pavement may extend within five feet of the property line on any lot unless it is included with an ingress/egress location.
- (F) Special Standards-Commercial/Institutional. When located adjacent to, and visible from, a residential use, increased landscaping standards shall be applied to reduced noise and light glare and to ensure residents' privacy.
 - 1. Physical barrier. A physical barrier shall be required that shall be a minimum of 6-feet in height and may consist of wood or masonry fencing, rock or brick walls, berms, or a combination of these methods.
 - 2. Trees and shrubs shall be placed in front of the barrier (on the developing side) to reduce parking lot noise.
 - 3. Trees and shrubs planted shall provide 60% coverage of the physical barrier within two (2) years.
 - 4. At least 50% of the trees and shrubs shall be evergreen.
 - 5. Tree Preservation. Existing healthy trees (as detailed in the tree preservations credits section) may be included as a portion of the landscaped screening.
 - 6. If a large buffer is retained, these standards may be reduced based on expected reduction of impact. The Planning Board shall approve any reduction.
- (G) Special Standards-Industrial. In addition to the standard required for Commercial/Institutional

153.xxx LANDSCAPE INSTALLATION REQUIREMENTS

All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. All plants shall be nursery grown and adapted to the local area. All landscape material, both living and nonliving, shall be in place prior to issuance of a final certificate of occupancy. A temporary certificate of occupancy may be issued prior to installation of required landscaping if binding, written assurances are submitted, insuring that planting will take place when planting season arrives.

(A) Location

- 1. Drainage. Trees shall not be placed where they interfere with site drainage.
- 2. Overhead utilities. Trees shall not be placed where they require frequent pruning in order to avoid inference with overhead power lines. In such locations, small ornamental trees are encouraged. Every effort shall be made to avoid placing trees directly under overhead utilities.
 - a. Substitution of large trees. Where large trees are required, and placement under or near overhead utilities is necessary to meet the landscaping requirements, two small trees may be used to substitute for one required large tree.
- 3. Underground utilities. Landscaping shall be installed at locations that avoid placement directly above water lines. Where possible, tree plantings shall be located a minimum of five feet from all underground utilities.
- 4. Fire Hydrants. Landscaping shall not be placed within five feet of a fire hydrant.
- 5. Right of Way. Trees may be placed in the right-of-way per the adopted street sections. Street trees are required within the greenspace between the road and sidewalk.

(B) Minimum size. Upon planting, plant material shall meet the minimum requirements:

1. Shrubs- Shrubs planted to satisfy the standards of this section shall be a minimum of 3-gallons in size.
 2. Small deciduous or ornamental trees. Small deciduous and ornamental trees planted to satisfy the standards of this section shall have a minimum height of four feet, and a minimum caliper of one and one half (1.5) inches.
 3. *Conifers or evergreens*. Conifers or upright evergreen trees planted to satisfy the standards of this section shall have a minimum height, after planting, of six feet.
 4. *Medium and large deciduous trees*. Medium and large deciduous trees planted to satisfy the standards of this section shall have a minimum height of eight feet, and a minimum diameter of three inches, measured at a point that is at least four feet above existing grade level.
 5. *Use of existing plant material*. Trees that exist on a site, prior to its development, may be used in part to satisfy the landscaping standards of this section provided they meet the size, variety, and location requirements of this section.
- (C) *Species mix*. When more than ten trees are required to be planted to meet the standards of this section, a mix of species shall be provided. For each ten, or fractions thereof, another differing species shall be used.

153.xxx TREE PRESERVATION CREDITS

Whenever possible, existing trees, especially those with an 8-inch or greater DBH (diameter at breast height), should be preserved. Established trees with existing canopy benefit the City, and enhance the quality of life for citizens.

- (A) *Healthy Trees*. No tree preservation credits will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees shall be a minimum 4-inch caliper to be counted towards tree preservation. Protection during construction. Trees for which credit is given shall be protected during construction from:
1. Mechanical injuries to root, trunk and branches;
 2. Injuries by chemical poisoning;
 3. Injuries by excavation; and
 4. Injuries by paving.
- (B) *Credit Options*. If an applicant is preserving trees, he may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below and as approved by the Planning Board.
1. Reduction of parking requirements. To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number or required off-street parking spaces may be reduced as described below:
 - a. Total Diameter of all Preserved Trees from 4-7.9 inches allows the reduction of one (1) required parking space.
 - b. Total Diameter of all Preserved Trees from 8-22.9 inches allows the reduction of two (2) required parking spaces.
 - c. Total Diameter of all Preserved Trees from 23-29.9 inches allows the reduction of three (3) required parking spaces.
 - d. Total Diameter of all Preserved Trees 30 + inches allows the reduction of four (4) required parking spaces.
 2. Reduction of required trees.
 - a. Not to include a reduction to required street trees.

- b. Not to include a reduction to trees intended as a buffer for a residential use, or a marginally compatible use, unless the protected trees are existing with a preserved buffer area.
- c. Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted at the following rates:
 - i. Total Diameter the Preserved Tree from 4-7.9 inches allows the reduction of one (1) required Large Tree.
 - ii. Total Diameter the Preserved Tree from 8-22.9 inches allows the reduction of two (2) required Large Trees.
 - iii. Total Diameter the Preserved Tree from 23-29.9 inches allows the reduction of three (3) required Large Trees.
 - iv. Total Diameter the Preserved Tree 30 + inches allows the reduction of four (4) required Large Trees.

(C) Additional Development. If a natural area is left undeveloped in order to fulfill these credit options, that is then to be developed, all credits will be revoked; the developer is responsible for adding trees to replace those for which credit was given.

153.xxx MAINTENANCE AND REPLACEMENT

Trees, shrubs, fences, walls and other landscape features (which includes screening) depicted on plans approved by the city shall be considered as elements of the project in the same manner as parking, building materials, and other details of the plan are considered elements. The landowner, or successors in interest, or agents, if any, shall be jointly and severally responsible for the following:

- (A) Regular maintenance of all landscaping in good condition, and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;
- (B) The repair or replacement of required landscape structures (e.g. fences and walls) to a structurally sound condition;
- (C) The regular maintenance, repair, or replacement, where necessary, of any landscaping required by this section; and
- (D) Continuous maintenance of the site.
 - 1. Three-year guarantee. Guarantee from the developer that all plant materials will be warranted for a period of three years from the time of installation. If any material should fail to survive during that period, it would be replaced during the appropriate planting season.

153.xxx ALTERNATIVE METHODS OF COMPLIANCE

- (A) Alternative compliance. Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved by the Planning Commission, an alternative compliance landscape plan may be substituted, in whole or in part, for landscaping requirements of this section.

(B) Procedure. Alternative compliance landscape plans shall be considered through the site plan review process.

1. Review criteria. In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards, and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:

- a. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this section;
- b. Innovative landscaping or architectural design is employed on the proposed development site to achieve a buffering effect that is equivalent to the buffering or screening standards of this section;
- c. The required landscaping or buffering would be ineffective at maturity due to topography, or the location of improvements on the site;
- d. The site involves unusually shaped parcels that make full compliance impossible or impractical;
- e. Due to a change of use of an existing site, the required landscaping exceeds the amount that can be approved;
- f. Safety considerations require a change;
- g. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

153.xxx DEDICATION AND LANDSCAPING OF NEIGHBORHOOD PARKS

(A) Purpose. Provide health and wellness through recreational opportunities, social engagement, neighborhood community building, nature education; parks increase neighborhood and city property values and contribute to overall quality of life.

(B) Ratios for dedication. Developers of residential developments with more than 5 lots/units, shall dedicate, in perpetuity, to the City of Tontitown land area, exclusive of streets, for a park and/or trails within the development. Land shall be dedicated at a ratio of .02 acres (870 SF) of land for each single-family dwelling unit and .01 acres (435 SF) for each multi-family dwelling unit. If the dedicated land area will be less than one (1) acre in size, the "in lieu of fee" will automatically be required.

1. Dedication. Dedication of land must be made before the city signs the Final Plat or the building permit is issued for the development. Deeded land is dedicated park land and is not subject to any right of reversion or refund.

(C) Fee payment in lieu of Land Conveyance. In lieu of land dedication, the developer shall contribute to the City of Tontitown Parks and Trails Development fund \$250 for each single-family unit and \$100 for each multi-family unit. The City shall review the designated fees every 2 years and make adjustment suggestions to the City Council.

1. Use of Fees. Fees in lieu of dedication for parks shall be deposited in the Tontitown City Parks and Trails Development Fund and shall only be used for park or trail acquisition, development, maintenance, or upgrades, as determined by the City.

2. Fees. Intention for fees in lieu of dedication shall be included in the development agreement and paid prior to the City's signature of, and release of, the final plat.
- (D) Location of Park. The most suitable location for park may be determined by the developer, and approved by the Planning Board. Dedicated park land shall be contiguous and shall be dedicated in perpetuity. Land, when dedicated, shall be shown on the Preliminary and Final Plats and on Site Plans and Landscape Plans.
- (E) Unacceptable Park Land. Street front landscape buffers or parking lot landscape buffers and islands; stormwater detention ponds; irrigation ditches, swales, and stormwater channels, land with excessive grade, land with immovable trash, junk and/or pollutants, or any other land deemed unsuitable by the Planning Board shall not be dedicated as park land.
- (F) Required Essential Landscaping and Infrastructure.
1. Community green space with bench seating (min 2 benches)
 2. Open turf grass area
 3. ADA accessible walking trail or path into public area.
 4. Trash receptacle to be approved by the City. City will be responsible for trash disposal.
 5. Water and sewer connections. (there will be no charge for these taps).
 6. Other utility easements for future connections.
 7. Hose bib connection.
 8. Vegetation planning requirements below. Can be altered at the discretion of the Planning Board when native trees, shrubs, grasses, and other vegetation are preserved.
 - a. Minimum of four (4) Large trees.
 - b. Minimum of two (2) small trees.
 - c. Other perennial vegetation
 9. A minimum of one active use enhancement per acre shall be incorporated into the park.
 - a. Children's playground equipment
 - b. Splash Pad park.
 - c. Sports facility, can include bocce court, volleyball court, basketball court, tennis court, soccer field, disk golf course, or other facility approved by the Planning Board.
 - d. Hiking or biking trails.
 - e. Other amenity approved by the Planning Board.
 1. Other Optional amenities to include (not required).
 - a. Lighting,
 - b. Picnic tables,
 - c. Barbeque grills,
 - d. Restroom facilities
 - e. Gazebo or pavilion
 - f. Rain garden, or other display garden
 - g. Drinking fountain.
- (G) Park naming rights. The developer shall have naming rights for the park, subject to approval by the Planning Board.

- (H) Ownership and Maintenance/Replacement. Dedicated parks shall be maintained by the City of Tontitown.
- (I) Park Design and Construction Standards. Developer shall design and construct neighborhood parks in compliance with all City design standards for public improvements.
- (J) Performance Bond, Landscaping Installation, Maintenance, and Replacement of Landscaping Materials.
 - 1. Performance Bond/Guarantee Requirement. At the time of presentation of the final Landscape Site Plan, the developer shall be required to provide the City with a performance bond, certificate of deposit, or letter of credit to ensure full compliance with landscape installation and a two-year replacement/maintenance requirement for the dedicated park. The bond instrument shall be subject to rules found in Chapter 152.030-152.032 regarding actions to be taken by the City and developer depending on the type of bond submitted.
 - a. If all landscaping has been installed per the plan, the performance bond shall be for 50% of the cost of material and labor.
 - b. If the landscaping has not been installed, the bond shall be for 100% of the cost of material and labor.
 - c. The bond shall be irrevocable and shall list the city as sole beneficiary.
 - d. The bond shall be in a form approved by the City Attorney.
 - e. The bond shall run for no less than 24 months.
 - f. Should the City have to complete the approved Landscaping Site Plan and/or replace dead landscaping material within two years of planting, as determined by the city staff after consultation with the city's engineer, the city shall be entitled to payment upon making demand for payment under the terms of the bond, cash deposit or letter of credit. The city shall be entitled to use all of the money secured by the bond, cash deposit or letter of credit to assure the proper installation or maintenance of the improvement.
 - g. The subdivider shall not be entitled to any excess monies until the installation and/or maintenance of the improvements in the park have been satisfactorily completed.
 - 2. Installation. All landscaping shall be installed in accordance with standards and requirements of this ordinance. Permits for building, Paving, utilities, or construction shall not be issued until a Landscape Site Plan including all required information is submitted and approved by the Planning Board. The Landscape Site Plan must be submitted with the Site Plan.
 - 3. Delays in Planting. When construction has been completed but it would be impractical to plant trees, shrubs, grass, or other landscape material due to weather conditions, upon approval of the City, the developer shall be given additional time to complete all required landscaping; further, a temporary occupancy permit may be issued by the Building Inspector. The developer or builder must beak every effort to finished the project within the given timeframe for completion that both parties have agreed to.

4. Enforcement. Final occupancy permits and /or final plats will be held for those who fail to complete the landscaping requirements that the City and developer have agreed to.

153.xxx RECOMMENDED TREES AND SHRUBS.

(A) Criteria. The following lists indicate plantings that meet the landscaping requirements. These are recommendations. Other species may be considered by the City (unless specifically prohibited in other official City Documents or Ordinances). No known invasive species shall be allowed.

1. All plant materials should be spaced appropriately in accordance with mature plant size.
2. Plant materials intended for screening as required, should be spaced appropriately to form the appropriate screen upon maturity.
3. Perennials and Grasses: no restrictions, natives and drought tolerant species preferred.

(B) Recommended Plant Lists:

1. Large Trees

Common Name	Scientific Name	Not to be used as a street tree
American Beech	<i>Fagus grandifolia</i>	x
Baldcypress	<i>Taxodium distichum</i>	
Bitternut Hickory	<i>Carya cordiformis</i>	
Black Oak	<i>Quercus velutina</i>	
Black Walnut	<i>Juglans nigra</i>	
Bur Oak	<i>Quercus macrocarpa</i>	
Chinkapin Oak	<i>Quercus muehlenbergii</i>	
Frontier Elm	<i>Ulmus carpinifolia</i> x <i>parvifolia</i>	
Jefferson Elm	<i>Ulmus americana</i> 'Jefferson'	
Lacebark Elm	<i>Ulmus parvifolia</i>	
Littleleaf Linden	<i>Tilia cordata</i>	
Northern Red Oak	<i>Quercus rubra</i>	
Osage Orange	<i>Maclura pomifera</i>	x
Pecan	<i>Carya illinoensis</i>	
Prospector Elm	<i>Ulmus wilsoniana</i>	
River Birch	<i>Betula nigra</i>	x
Shagback Hickory	<i>Carya ovata</i>	

Shingle Oak	<i>Quercus imbricaria</i>	
Shumard Oak	<i>Quercus shumardi</i>	
Silver Linden	<i>Tilia tomentosa</i>	
Southern Magnolia	<i>Magnolia grandiflora</i>	x
Southern Red Oak	<i>Quercus falcate</i>	
Sycamore	<i>Platanus occidentalis</i>	
Sugarberry	<i>Celtis laevigata</i>	
Swamp White Oak	<i>Quercus bicolor</i>	
Tuliptree	<i>Liriodendron tulipifera</i>	
Turkish Filbert	<i>Corylus colurna</i>	
Water Oak	<i>Quercus nigra</i>	
White Oak	<i>Quercus alba</i>	
Willow Oak	<i>Quercus phellos</i>	
American Hophornbeam	<i>Ostrya virginiana</i>	
American Holly	<i>Ilex Opaca</i>	x
Chinese Pistache	<i>Pistacia chinensis</i>	
Crape Myrtle	<i>Lagerstroemia indica</i>	
Goldenrain Tree	<i>Koelreuteria paniculate</i>	
Japanese Zelcova	<i>Zelcova serrata</i>	

2. Small/Understory Trees

Common Name	Scientific Name	
American Smoketree	<i>Cotinus obovatus</i>	
Crabapple	<i>Malus species</i>	
Cherry	<i>Prunus serrulata</i>	
Fringe Tree	<i>Chionanthus virginicus</i>	
Flowering Dogwood	<i>Cornus florida</i>	
'Little Gem' Magnolia	<i>Magnolia grandiflora</i> 'Little Gem'	
Natchez Crape myrtle	<i>Lagerstroemia indica</i> 'Natchez'	
Oriental Arborvitae	<i>Platycladus orientalis</i>	
Oklahoma Redbud	<i>Cercis reniformis</i> 'Oklahoma'	
Possumhaw	<i>Ilex deciduas</i>	
Serviceberry	<i>Amelanchier arborea</i>	
Saucer Magnolia	<i>Magnolia x soulangiana</i>	

Star Magnolia	<i>Magnolia stellata</i>	
Sweet Bay Magnolia	<i>Magnolia virginiana</i>	
Yaupon Holly	<i>Ilex vomitoria</i>	

3. Shrubs

Common Name	Scientific Name	
Summersweet	<i>Clethra alnifolia</i>	
Butterfly Bush	<i>Buddlei davidii</i>	
Chokeberry	<i>Aronia species</i>	
Cotoneaster	<i>Cotoneaster species</i>	
English Laurel	<i>Prunus laurocerasus</i>	
Elderberry	<i>Sambucus nigra</i>	
Fragrant Sumac	<i>Rhus aromatic 'Gro-Low'</i>	
Inkberry Holly	<i>Ilex glabra</i>	
Compact Japanese Holly	<i>Ilex crenata 'Compacta'</i>	
Seagreen Juniper	<i>Juniperus X pfitzeriana 'Sea Green'</i>	
Boxwood	<i>Buxus sinica var. insularis 'Wintergreen'</i>	
Dwarf Yaupon Holly	<i>Ilex vomitoria (dwarf cultivars)</i>	
Nellie R. Stevens Holly	<i>Ilex 'Nellie R. Stevens'</i>	
Foster's Holly	<i>Ilex attenuata 'Fosteri'</i>	
Fothergilla	<i>Fothergilla gardenia</i>	
Glossy Abelia	<i>Abelia grandiflora</i>	
Hydrangea	<i>Hydrangea species</i>	
Mugo Pine	<i>Pinus mugo</i>	
Pieris	<i>Pieris species</i>	
Pyracantha	<i>Pyracantha species</i>	
Spiraea	<i>Spiraea species</i>	
Twig Dogwood	<i>Cornus sericea</i>	
Viburnum	<i>Viburnum species</i>	
Weigela	<i>Weigela species</i>	
Yew	<i>Taxus species</i>	
Yucca	<i>Yucca species</i>	