

ORDINANCE NO. 2020-__

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE AMENDING SECTION 152.080
APPLICABILITY AND SECTION 152.082 REVIEW AND
APPROVAL, OF CHAPTER 152: DEVELOPMENT AND
SUBDIVISION REGULATIONS, OF THE TONTITOWN
MUNICIPAL CODE AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of Tontitown has adopted regulations pertaining to incidental subdivisions codified in Section 152.080 APPLICABILITY and Section 152.082 REVIEW AND APPROVAL of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS of 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 152.080 APPLICABILITY and Section 152.082 REVIEW AND APPROVAL of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS of the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the amendment, and following a public hearing regarding the same, voted to recommend its approval; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 152.080 APPLICABILITY and 152.082 REVIEW AND APPROVAL of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS, of the Tontitown Municipal Code should be revised and restated in its entirety as incorporated herein below.

NOW THEREFORE, BE IT ENACTED, by the Tontitown City Council (the “City Council”) of the City of Tontitown, as follows:

Section 1. Section 152.080 APPLICABILITY and Section 152.082 REVIEW AND APPROVAL of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS of the Tontitown Municipal Code is hereby revised to read, 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 provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 4. **Declaration of Emergency.** It is hereby found and determined that Section 152.080 APPLICABILITY and Section 152.082 REVIEW AND APPROVAL of Chapter 152: DEVELOPMENT AND SUBDIVISION REGULATIONS of the Tontitown Municipal Code should be immediately amended in order to clarify regulations pertaining to incidental subdivisions within the city. 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 _____, 2020.

APPROVED:

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer
(SEAL)

EXHIBIT “A”

§ 152.080 APPLICABILITY.

(A) This section of the subdivision regulations is designed to expedite the platting and recording of minor subdivisions, lot splits and certain other dividing or adjustment of land area defined hereafter.

(B) For the purposes of these regulations, incidental subdivisions include the following:

(1) *Lot split.* A lot split in which a lot, located in an already existing recorded subdivision ~~within the planning area~~ is divided into three lots or less, and where rights-of-way and/or utility easements are being dedicated to the city. A property cannot be divided into more than three separate tracts within a five year time period. more than once in a 12-month period.

(2) *Minor subdivision.* A minor subdivision in which a lot, tract, or parcel is divided into ~~three~~ five lots or less and does not require dedications, vacations, reservations, changes in alignment of easements or rights-of-way, or extensions of utilities. A property cannot be divided more than once in a five year time period ~~12-month period.~~

(3) *Property line adjustment.* A property line adjustment in which a property line(s) is moved or relocated but does not create an additional lot. A property line adjustment may or may not dedicate rights-of-way and/or utility easements.

(4) *Correction plat.* A correction plat in which a correction to an existing plat is necessary due to an incorrect legal description or ~~scribe~~ scrivener's errors. The correction plat does not change the boundaries, does not change the subdivision name and does not create new lots. The correction plat may or may not create new utility easements.

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

§ 152.081 APPLICATION FOR APPROVAL.

(A) The application shall be submitted to the Planning Department for administrative review and approval, and shall consist of the following:

(1) *Application.* Completed and signed application form.

(2) *Fee.* Payment of the filing fee as specified in the application or schedule of fees.

(3) *Survey.* Survey of the property signed and sealed by a registered land surveyor with the state showing the information as required on the application.

(4) *Plat.* Provide the number of copies of the plat as indicated in the application. The plat shall be drawn clearly to include the information as required in §§ 152.115 through 152.117.

(5) *Deed.* Copy of land deed showing ownership of property.
(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.02, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15)

§ 152.082 REVIEW AND APPROVAL.

(A) *Review.*

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

(2) *Action.* The Planning Department shall approve with conditions, or disapprove said plat. After formal approval by the Department, a building permit can be issued after the applicant records the plat at the office of the Washington County Circuit Clerk and provides the city with two copies. If the plans are approved with conditions, the conditions shall be set forth in written form to the owner/developer. The signature of the owner/developer on the form setting forth the conditions of approval shall be deemed his or her agreement to comply with said conditions, whereupon a building permit may be issued. If the plat is disapproved, the reasons for such action shall be provided in written form to the developer.

(3) *Additional review.* If the planning staff determines that there is a necessity of transmitting the plans to outside sources for additional comment or in-depth study, he or she shall notify the developer in writing within 30 days of receipt of plans, that a decision will not be made within the 30-day time period, what the reasons are for the delay and the date at which a decision can be expected, the developer may be assessed additional engineering and professional review fees. A copy of the letter shall be sent to the Chairman of the Planning Commission. If the developer objects to such an extension, the objection shall be heard as a priority item at the next regularly scheduled Planning Commission meeting.

(4) *Approval signatures.* All approvals to any plat shall be signified by the signature of the Planning Commission Chairman upon the development plan.

(B) *Planning Commission action.* The Planning Commission shall review any incidental subdivision after administrative review as set forth in division (A) within 120 days of receipt thereof, otherwise the incidental subdivision shall be deemed to have been approved. Approval of the incidental subdivision by the Planning Department shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.

(C) *City Council action.* Any incidental subdivision that dedicates street rights-of-way or easements shall be reviewed by the City Council.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.03, passed 9-3-13; Am. Ord. 2015-07-530, passed 7-21-15; Am. Ord. 2017-12-668, passed 12-5-17)

§ 152.083 RECORDING.

If approved, and after all conditions have been met, the applicant shall submit the plat for recording with the Washington County Circuit Clerk. Two copies and digital copy in AutoCAD (DWG) and PDF format on CD of the final recorded plat shall be furnished by the applicant to the Planning Official.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.600.04, passed 9-3-13; Am. Ord. 2017-12-668, passed 12-5-17)

§ 152.084 REVIEW CRITERIA.

Approval or disapproval of incidental subdivisions shall be given based on the following threshold guidelines:

(A) No new street or alley is required or proposed.

(B) No vacation of streets, alleys, setback lines, access control or easements is required or proposed.

(C) Such action will not result in any significant increases in public service requirements, nor will interfere with maintaining existing public service levels.

(D) There is adequate street right-of-way as required by these regulations and the Master Street Plan.

(E) All easement requirements have been satisfied.

(F) All lots created by such split or readjustment shall have access on a public street.

(G) No substandard sized lots or parcels shall be created.

(H) No waivers or variances from these regulations are requested.

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