

Mayor – Paul Colvin Jr.  
Recorder – Rhonda Ardemagni  
City Attorney –Justin Eichmann  
Law Firm—Harrington-Miller  
City Engineer—Garver Engineers



Ward 1 Position 1— Gene McCartney  
Ward 1 Position 2— Amber Ibarra  
Ward 2 Position 1—Arthur Penzo  
Ward 2 Position 2—Larry Ardemagni  
Ward 3 Position 1—Don Doudna  
Ward 3 Position 2— Tim Burress

**City Council**  
**March 2, 2021**  
**Agenda**

The Tontitown City Council is scheduled for Tuesday March 2, 2021 at 6:00 p.m. at Tontitown City Hall and via Zoom and YouTube visit <https://zoom.us/j/92076441456>

Meeting ID: 920 7644 1456# or join by phone at +1 (312) 626-6799

When prompted for Meeting ID: 920 7644 1456# If you do not have a Participant Number: press #

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1. Meeting Call to Order
  2. Roll Call
  3. Pledge of Allegiance
  4. Approval of Agenda
  5. Approval of City Council Minutes from February 2, 2021.
  6. Comments from Citizens
  7. Approval by City Council Members to Waive the 3 Reading Rule for All Ordinances on Agenda
  8. Old Business:
    - a) None.
  9. New Business:
    - a) Approval of an Ordinance amending various sections of Chapter 153, Zoning Regulations, of the Tontitown City Code -Colvin
    - b) Appointment of a Planning Commissioner to serve a two year term expiring December 31, 2023 -Colvin
    - c) Approval of a Resolution increasing the salary of the Mayor -McCartney
    - d) Approval of a Resolution increasing the salary of the Clerk/Treasurer -McCartney
    - e) Approval of a Resolution increasing the pay of the Planning Commissioners -McCartney
    - f) Approval of an Ordinance Rezoning 1.74 acres of property located at 1620 Liberty Avenue from R-E, Residential Estate to R-3, Residential Single Family -Colvin
    - g) Approval of a Resolution amending the Tontitown/Washington Water Authority Service Boundary -Colvin
    - h) Approval of an Ordinance Waiving Competitive Bidding and authorizing the Mayor to enter into a Cost Share Agreement with Solomon Properties, LLC for waterline extension on Klenc Road and declaring an emergency -Colvin

- i) Approval of an Ordinance Waiving Competitive Bidding and authorizing the Mayor to enter into a Cost Share Agreement with Whitaker Properties and L86 Construction for the installation of a sewer line Extension Project and related work and declaring an emergency -Colvin
  - j) Approval of an Ordinance Amending Ordinance No. 131 in order to authorize seventy-five percent of the net collections of the 1% sales and use tax levied within the City of Tontitown to be used first, as needed, to repay bonds issued from time to time by the city and approved by the voters to finance and refinance capital improvements with the balance to be used to improve municipal water and sewer services and twenty five percent of the net collections of the tax to be used to improve municipal water and sewer services and prescribing other matters -Colvin
  - k) Approval of a Resolution calling for a special election to be held on June 8, 2021 -Colvin
  - l) Approval of an Ordinance calling a special election in the City of Tontitown on the questions of issuing bonds under Amendment 62 to the Constitution of Arkansas for the purpose of financing and refinancing all or a portion of the costs of capital improvements and prescribing other matters thereto -Colvin
  - m) Approval of an Ordinance authorizing the execution of a Master Equipment Lease Purchase Agreement with Community First National Bank and prescribing other matters pertaining thereto (Pumper Tanker Truck) -Colvin
  - n) Approval of a Resolution authorizing the Mayor to apply for a grant from the Arkansas Rural Community Grant Program, Department of Rural Services, on behalf of the City of Tontitown for Safety Improvements to the Baseball Field at Harry Sbanotto Park -Colvin
  - o) Approval of a Resolution authorizing the Mayor to negotiate the purchase of property located at 199 E Bandini Avenue containing approximately 2.05 acres -Colvin
- 10. Comments from Aldermen
  - 11. Comments from Mayor
  - 12. Comments from City Attorney
  - 13. Adjournment

**ORDINANCE NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE AMENDING CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ORDER TO PROVIDE FOR THE ADDITION OF A R-4 SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of Tontitown has zoning regulations codified in in Chapter 153: ZONING 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 these zoning regulations in order to provide for the addition of a R-4 Single-Family Residential Zoning District; and

**WHEREAS**, in order to provide for an additional R-4 Single-Family Residential Zoning District, it is necessary to amend Chapter 153: ZONING REGULATIONS throughout to bring the zoning regulations in conformity with this new district; and

**WHEREAS**, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be amended 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 153.060 ZONING DISTRICTS ESTABLISHED; Section 153.080: AGRICULTURE AND RESIDENTIAL DISTRICTS; GENERAL DESCRIPTION; Section 153.141: LOCATION REQUIREMENTS AND STANDARDS; Section 153.210: OFF-STREET PARKING AND LOADING; and SECTION 153.214: RESIDENTIAL COMPATIBILITY STANDARDS of the Tontitown Municipal Code are hereby revised as reflected in the attached Exhibit “A”. The remaining provisions of Sections 153.060, 153.080, 153.141, 153.210 and 153.214 not specifically reflected to be amended or replaced by this exhibit remain in full force and effect.

**Section 2.** Section 153.173: SPECIAL CONDITIONS APPLICABLE TO CERTAIN USES of the Tontitown Municipal Code is hereby replaced in its entirety to read as attached hereto as Exhibit “B”. Section 153.083: COMMERCIAL AND INDUSTRIAL USES AND EXCLUSIVE USE-LANDFILL USES PERMITTED is also hereby revised to add one line to the zoning table reflected in the exhibit. The rest and remained of Section 153.083 not specifically reflected to be amended or replaced by this exhibit remains in full force and effect.

**Section 3.** Section 153.184 SIGN REGULATIONS BY DISTRICT of the Tontitown Municipal Code is hereby revised to read as attached hereto as Exhibit “C”. The rest and remained of Section 153.184 not specifically reflected to be amended or replaced by this exhibit remains in full force and effect.

**Section 4.** Section 153.212 LANDSCAPING, SCREENING, FENCING, AND BUFFERING of the Tontitown Municipal Code is hereby revised to read as attached hereto as Exhibit “D”. The rest and remained of Section 153.212 not specifically reflected to be amended or replaced by this exhibit remains in full force and effect.

**Section 5.** Section 153.080(V) is redacted.

**Section 6.** 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 7.** Declaration of Emergency. It is hereby found and determined that Chapter 153: ZONING REGULATIONS of the Tontitown Municipal Code should be immediately amended in order to better clarify the zoning regulations 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 \_\_\_\_\_, 2021.

**APPROVED:**

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

**ATTEST:**

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

DRAFT

# R-4 Zoning

Includes: R4 zoning,  
parking code, and  
residential  
compatibility code

City of Tontitown

2-10-2021



## ***ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES***

### **§ 153.060 ZONING DISTRICTS ESTABLISHED.**

The following zoning districts, which may be referred to by their abbreviations, are hereby established:

(A) Base zoning districts:

- A Agriculture
- R-E Estate Single-Family Residential - two-acre minimum lot size
- R-1 Single-Family Residential - one-acre minimum lot size
- R-2 Single-Family Residential - one-half acre minimum lot size
- R-3L Single-Family Residential - 14,520 square foot minimum lot size one-third acre
- R-3 Single-Family Residential - 9,600 square foot minimum lot size; provided density shall not exceed three units/acres

**R-4 Single-Family Residential – 8,000 square foot minimum lot size; provided the density shall not exceed four (4) units/acre**

**RMF-16 Multi-Family Residential - 16 units/acre maximum**

R-MH Residential-Mobile Homes

C-1 Light Commercial/Office

C-2 General Commercial

I Industrial

EU-L Exclusive Use-Landfill

(B) Overlay and special purpose zoning districts

P Planned Unit Development District

(Ord. 2017-05-635, passed 5-2-17; Am. Ord. 2020-07-892, passed 7-7-20)

### **§ 153.061 ZONING DISTRICT HIERARCHY.**

References to less restrictive, more restrictive, less intensive and more intensive zoning districts refer to the base zoning districts established above; and represent a progression from the A district as the most restrictive (or least intensive) base district to the I district as the least restrictive (or most intensive) base district. Overlay and special purpose districts are not included in the zoning district hierarchy.

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

#### **§ 153.062 ZONING DISTRICT BOUNDARY MAP.**

(A) The location and boundaries of the zoning districts established herein are defined as shown on a map entitled "Official Zoning Map of the City of Tontitown, Arkansas," which is on file in the office of the Clerk-Treasurer. This map, together with all explanatory data thereon, is hereby adopted by reference, and declared to be a part of these regulations. The official zoning map shall be certified as such by signature of the mayor, attested by the Clerk-Treasurer.

(B) If, in accordance with the provisions of these regulations, changes are made in district boundaries or other data portrayed on the official zoning map, such changes shall be made on said map within 30 days after the amendment has been approved by the City Council.

(C) No changes of any nature shall be made on the official zoning map or information shown thereon, except in conformity with the procedures set forth in these regulations. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of these regulations, and punishable pursuant to misdemeanor provisions contained in the city code.

(D) Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map located in the office of the Clerk-Treasurer shall be the final authority as to the current zoning status of property in the city.

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

#### **§ 153.063 INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the zoning official shall employ the following rules in interpretations thereof. Decisions of the zoning official are subject to appeal to the Board of Zoning Adjustment.

(A) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(C) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(D) Boundaries indicated as following waterways shall be construed to be following the thread of the stream.

(E) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(F) Boundaries indicated as parallel to, or extensions of features mentioned in the preceding rules, shall be so construed.



(G) Where distance is not specifically indicated on the official zoning map, as is typically the case with un-subdivided property, distance shall be determined by the scale of the map.

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

#### **§ 153.064 CLASSIFICATION OF ANNEXED LANDS.**

All lands proposed for annexation shall be assigned zoning district classification(s) that will become effective at the same time the annexation becomes final. The map amendment procedures contained herein shall be followed in assigning said classification(s).

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

#### **§ 153.065 VACATION OF PUBLIC RIGHTS-OF-WAY.**

Whenever any street, alley, or other public way is vacated or abandoned by action of the City Council pursuant to law, the zoning district classification of the property to which the vacated portions of land accrue, shall become the classification of the vacated land.

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

### ***DISTRICT REGULATIONS***

#### **§ 153.080 AGRICULTURE AND RESIDENTIAL DISTRICTS; GENERAL DESCRIPTION.**

- (A) Counting the agriculture district, which is considered to be a very low density single-family district, and acts to serve as a "holding" zone for subsequent higher density consideration, there are eight districts designed to meet present and future housing needs; to protect the character of, and property values in, residential areas; to encourage a suitable environment for family life; and to provide choice in density, as well as in type of housing. Five of the districts are for low-density single-family uses, and are intended to be defined and protected from the encroachment of uses not performing a function necessary to the low density, residential environment. One district is intended for medium-density single-family uses, and one exists for multi-family residential uses. More specific descriptions of the residential districts are as follows and it is the intent and desire of the city that all zoned areas, be served by municipal water and sanitary sewer service.
- (B) *Agriculture district.* The purpose of this district is to provide for a very low density single-family district, while helping preserve existing agricultural resources, and to guide the conversion of these lands to higher density residential use when appropriate. Agricultural areas should be protected for development by appropriate standards until they are well served by public facilities and services that will permit higher density residential development.

- (C) *R-E, Estate Single-Family district.* The purpose of this district is to accommodate single-family residential development on low density, large estate type lots. This zone is intended to help establish and preserve rural/estate character in certain areas of the city.
- (D) *R-1, Single-Family Residential.* The purpose of this district is to accommodate single-family residential uses on generously sized residential lots of at least one acre. This zone is generally applied on the fringe of built-up areas of the city, and may act as a buffer to R-E zones.
- (E) *R-2, Single-Family Residential.* This district is intended to provide single-family residential uses on moderately sized, low-density lots of at least one-half acre.
- (F) *R-3-L, Single Family Residential.* This district is intended to provide single-family residential uses on moderately sized, low-density lots of at least 14,520 square feet, one-third acre.
- (G) *R-3, Single-Family Residential.* This district is characterized by single-family residential development on medium-sized lots of at least 9,600 square feet, with density not exceeding three units/acre. As with other residential zones, this district also serves as a buffer in providing for a step-down in intensity from higher to lower density residential and other types of development. It is the intent and desire of the city that R-3 zoned areas, which typically have smaller sized lots, be served by municipal water and sanitary sewer service.
- (H) *R-4, Single Family Residential.* This district is characterized by single-family or duplex residential development on medium sized lots of at least 8,000 square feet, with density not exceeding four (4) units/acre. As with other residential zones, this district also serves as a buffer in providing for a step-down in intensity from higher to lower density residential and other types of development. It is the intent and desire of the city that R-4 zoned areas, which typically have smaller sized lots, be served by municipal water and sanitary sewer service.
- (I) *R-MF-16 Multi-Family Residential.* This district is to provide for multi-family development and is characterized by traditional apartment-type units in attached living complexes. Congregate housing for the elderly is also anticipated in this zone. The maximum density in this district is sixteen (16) dwelling units to the acre. It is the intent and desire of the city that R-MF-16 zoned areas be served by municipal water and sanitary sewer service.
- (J) *R-MH Manufactured Home/Mobile Home Residential.* This district is to provide for replacement of manufactured home/mobile homes on individually owned lots. Areas so classified must have all municipal services available. A maximum density in this district is one unit per acre.
- (K) *Uses permitted.*

(1) Uses permitted in the residential districts are set forth in the following table. Where the letter "P" appears opposite a listed use and underneath a residential district, the use is permitted in that district "by right" subject to:

- (a) Providing off-street parking and loading facilities as required by § [153.210](#);
- (b) Providing landscaping and screening as provided by § [153.212](#); and
- (c) Conformance with special conditions applying to certain uses as set forth in § [153.160](#) et seq.

(2) Only one principal structure per lot shall be permitted in R-E, R-I, R-2, R-3 and R-3L single-family districts. In addition to the accessory uses provided for in § [153.040](#) et seq., an accessory structure may be permitted for sheltering a riding horse on a residentially zoned lot or parcel with a minimum area of two acres, provided:

- (a) The structure is at least 100 feet from adjacent property lines;
- (b) No more than two horses are kept and sheltered on the property; and
- (c) The stall area does not exceed 450 square feet.

(3) In A districts, only one principal dwelling structure per lot shall be permitted.

(L) 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, and "NP" appears in the table, the use is not permitted.

(M) *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.

<b>Zoning Districts</b>	<b>A</b>	<b>RE</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3L</b>	<b>R-3</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>
<b>Residential uses</b>									
Single-family detached	P	P	P	P	P	P	P	P	NP
Duplex	NP	NP	NP	NP	NP	NP	C	P	NP
Townhome (triplex, 4-plex)	NP	N P	NP	NP	NP	NP	NP	P	NP
Detached accessory	P	P	P	P	C	C	C	NP	NP



<b>Zoning Districts</b>	<b>A</b>	<b>RE</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3L</b>	<b>R-3</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>
dwelling unit (ADU)									
Emergency Housing Unit	C	C	C	C	C	NP	NP	NP	NP
Multi-family (more than 4-plex)	NP	NP	NP	NP	NP	NP	NP	P	NP
Manufactured Housing Unit	NP	NP	NP	NP	NP	NP	NP	NP	P
Manufactured Housing, residential design	NP	NP	C	NP	NP	NP	NP	NP	P
Manufactured housing park	NP	NP	NP	NP	NP	NP	NP	C	C
Group Residential	NP	NP	NP	NP	NP	NP	NP	C	NP
<b>Civic and Commercial uses</b>									
Airport or airstrip	C	C	NP	NP	NP	NP	NP	NP	NP
Animal care, general	C	NP	NP	NP	NP	NP	NP	NP	NP
Animal care, limited	C	NP	NP	NP	NP	NP	NP	NP	NP
Automated teller machine	NP	NP	NP	NP	NP	NP	NP	P	NP
Bed and breakfast	C	C	C	NP	NP	NP	NP	NP	NP

<b>Zoning Districts</b>	<b>A</b>	<b>RE</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3L</b>	<b>R-3</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>
Cemetery	C	C	C	C	C	C	C	C	NP
Church	P	C	C	C	C	C	C	P	NP
College or university	C	NP	NP	NP	NP	NP	NP	P	NP
Communication tower	C	C	C	C	C	C	C	C	NP
Convenience store	NP	NP	NP	NP	NP	NP	NP	C	NP
Day care, limited (family home)	C	NP	C	C	C	C	C	C	NP
Day care, general	NP	NP	NP	NP	NP	NP	NP	C	NP
Golf course	C	C	C	C	C	C	C	P	NP
Government service	C	C	C	C	C	C	C	P	NP
Hospital	NP	NP	NP	NP	NP	NP	NP	C	NP
Library	C	C	C	C	C	C	C	P	NP
Medical services	NP	NP	NP	NP	NP	NP	NP	C	NP
Museum	C	C	C	C	C	C	C	C	C
Nursing home	NP	NP	NP	NP	NP	NP	NP	C	NP
Parks and Recreation	P	C	C	C	C	C	C	P	NP
Post office	NP	NP	NP	NP	NP	NP	NP	C	NP

<b>Zoning Districts</b>	<b>A</b>	<b>RE</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3L</b>	<b>R-3</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>
Recreation/entertainment, outdoor	C	NP	NP	NP	NP	NP	NP	NP	NP
Safety services	C	NP	NP	NP	NP	NP	NP	NP	NP
School, elementary/middle	C	C	C	C	C	C	C	P	NP
Utility, major	C	C	C	C	C	C	C	C	NP
Utility, minor	P	P	P	P	P	P	P	P	NP
Vocational school	C	NP	NP	NP	NP	NP	NP	C	NP
<b>Manufacturing and extractive uses</b>									
Asphalt or concrete plant	NP	NP	NP	NP	NP	NP	NP	NP	NP
Mining or quarrying	NP	NP	NP	NP	NP	NP	NP	NP	NP
Sod farm	C	NP	NP	NP	NP	NP	NP	NP	NP
Topsoil	C	NP	NP	NP	NP	NP	NP	NP	NP
<b>Agricultural uses</b>									
Agriculture, animal	P*	C	C	C	C	C	C	C	NP



<b>Zoning Districts</b>	<b>A</b>	<b>RE</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3L</b>	<b>R-3</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>
Agriculture, crop	P	P	P	P	C	C	C	C	NP
Agriculture, product sales	P	C	C	C	C	C	C	C	NP
Animal, farm	P	P	P	P	P	P	C	NP	NP
Chicken, hobby	P	P	P	P	P	P	P	NP	NP

\* All concentrated feedlot operations for livestock shall be subject to conditional use approval.

- (N) *Lot, yard and height regulations.* Except as otherwise provided herein, no lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements in the following table; nor shall any building or structure be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table.
- (O) *Minimum dimension requirements.* **SEE APPENDIX.**
- (P) When an existing lot is reduced because of conveyance to a federal, state or local government. For a public purpose, and the remaining area is at least 75% of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.
- (Q) Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements of all districts.
- (R) Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of these regulations. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.
- (S) Residential storage sheds of less than 250 square feet in size are exempted from setback requirements if:
  - (1) The structure is portable.
  - (2) The structure is maintained in good condition.

- (3) The area around the structure is maintained in good condition.
- (T) Certain architectural features may project into required yards (setback) as follows:
  - (1) Cornices, canopies, eaves, or other architectural features, may project a distance not to exceed 30 inches.
  - (2) Fire escapes may project a distance not exceeding four-and-a-half feet from the exterior wall of the building.
  - (3) An uncovered stair and necessary landings may project a distance not to exceed three feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet in height.
  - (4) Bay windows, balconies, and chimneys may project a distance not exceeding 30 inches, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.
- (U) When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 75% of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.
- (V) *Setback averaging.* When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street, and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications; provided that in no case shall more than six lots on either side of the subject property be included in the calculation.
- (W) When adjacent to R-E, R-I, R-2, R-3L, R-3 **R-4**, or R-MH districts, multi-family residential and nonresidential structures over one story or 15 feet in height shall have an additional eight-foot side and rear setback for every additional story or 15 feet in building height.
- (X) Maximum height limitation is 35 feet in all residential zones with the exception of the A and R-MF-16 districts, where the limitation is 45 feet. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval.



## **ACCESSORY USES**

### **§ 153.140 GENERAL DESCRIPTION.**

An accessory building is 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, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

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

### **§ 153.141 LOCATION REQUIREMENTS AND STANDARDS.**

(A) An accessory building shall not be located within a required street (front or street side) setback; shall be subject to all setback standards of the underlying zoning district; shall not be located within any public easement or over any known utilities or septic system lines. Accessory buildings, in all zones, shall not exceed the gross floor area of the principal use or as noted below, as long as the zoning district listed meets minimum lot size. Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks.

A.	N/A
RE	N/A
R-1	100%
R-2	100%
R-3L	67%
R-3	67%
<b>R-4</b>	<b>67%</b>
R-MF-16	67%
R-MH	67%

**\*\*Note\*\*** If the primary use is residential, and it is located in a commercial or industrial zoning district, the setback requirements would follow the zoning district in which located.

(B) An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements applicable to the principal building. Provided detached, open-sided carports may be located in the side yard, no closer to the front lot line than the front building line of the principal building and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least

ten feet from any other structure or as provided in the building code whichever is more restrictive.

(C) With regard to height limitations, accessory structures in residential districts shall not exceed the height of the primary structure, measured from the eave; and in commercial and industrial districts, such structures shall not exceed 25 feet in height or the height of the principal structure on the lot.

(Ord. 2017-05-635, passed 5-2-17; Am. Ord. 2017-12-668, passed 12-5-17)

#### **§ 153.142 RESIDENTIAL ACCESSORY USES.**

(A) Residential accessory uses shall include the following accessory uses, activities, facilities, and structures: fences and walls; garages, carports, and off-street parking and loading areas; gardens; gates and guard houses; home occupations (subject to limitations and requirements of division (C) below); playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving antennas; recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental, and subordinate to the principal use on the lot.

(B) *Home occupations permitted.*

(1) The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner.

(2) The work done in the home office or business creates no objectionable odor, noticeable vibration, or offensive noise that increases a level of ambient sound at the property lines.

(3) The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.

(4) The home office or business does not cause interference with any type of communication signal reception in the vicinity.

(5) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.

(6) The home office or business sells no articles on the premises that are not produced on the premises.

(7) The home office or business occupies no more than 10% of the total floor area of the residence.

(8) There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.

(9) Not more than one truck of not more than one and one-half ton capacity and no semi-trailers, incidental to the home occupation, shall be kept on the premises, except as allowed by conditional use.

(10) Customers may visit the site only during the hours of 8 a.m. to 8 p.m., and no more than six customers or clients may visit the site in any single day.

(11) Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.

(C) *Home occupations prohibited.* Prohibited home occupations include, but are not limited to the following:

(1) Barber and beauty shops with more than one chair, and requiring any upgrade in electric service.

(2) Dispatch centers, where workers come to the site to be dispatched to other locations.

(3) Commercial stables, kennels, and animal boarding and care facilities.

(4) Assembly or repair of large appliances.

(5) Repair or assembly of vehicles or equipment with internal combustion engines, or any other work related to motor vehicles and their parts.

(D) *Garage sales.* Garage sales, also commonly called rummage or yard sales, are permitted as accessory uses provided they meet the following requirements:

(1) Each such sale shall be permitted by a approved garage sale application.

(2) Each property address and/or person shall be limited to no more than four such sales per year.

(3) Sales shall not last longer than three consecutive days.

(4) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(5) Directional and advertising signs, not larger than nine square feet, shall be free standing; that is, they shall not be placed on traffic or official signs, utility poles or trees, and shall be removed promptly after completion of the sale.

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

#### **§ 153.143 NONRESIDENTIAL ACCESSORY USES.**

Nonresidential accessory uses are allowed only in association with permitted, nonresidential principal uses and shall include, but not be limited to, the accessory uses, activities, facilities, and structures enumerated below. Such uses shall not be allowed if such would cause or increase parking nonconformity for the principal use. Such use may also necessitate additional required parking because of its own nature or character. Accessory uses shall not occupy required parking areas, or off-street parking areas (spaces or isles) approved as part of a site plan. Nonresidential accessory uses include:



(A) Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients, or visitors to the principal use.

(B) Dwelling units, other than mobile homes, when used or intended to be used for security or maintenance personnel.

(C) Guard houses, gates, fences and walls.

(D) Offices for allowed business and industrial uses when the office is located on the same site as the principal use.

(E) Parking garages, and off-street parking and loading facilities.

(F) Radio and television receiving antennas.

(G) Restaurants, newsstands, gift shops, swimming pools, tennis courts, workout rooms, club and lounges when in a permitted hotel, motel or office building.

(H) Sale of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use.

(I) The storage of merchandise when located within the same building as the principal business.

(J) On-premise commercial, bulletin, nameplate, and real estate signs, provided such are non-flashing.

(K) Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

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

## **GENERAL STANDARDS**

### **§ 153.210 OFF-STREET PARKING AND LOADING**

(A) Applicability.

(1) Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.

(2) *Parking and loading schedules.*

(a) *Off-street parking schedule A.* Off-street parking spaces shall be provided in accordance with the following off-street parking schedule ("Schedule A"). In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B.

(b) The number of parking spaces required for a use not listed herein shall be the same as for a similar use that is listed. When the required number of spaces cannot be



ascertained by this method, or if the applicant and the city staff cannot agree, the matter shall be submitted for Planning Commission determination. Such determination shall be subject to appeal to the City Council.

#### **Schedule A**

<b><i>Residential uses</i></b>	<b><i>Minimum Number of spaces required</i></b>
Single-family detached	4 per dwelling/unit. Two spaces may be within a garage/carport structure (attached or detached), and the other two spaces may be within the driveway. Minimum driveway length shall be 25 feet measured from the street right-of-way.
Duplex	2 per dwelling unit
Multi-family	1.25 per efficiency unit 1.75 per one-bedroom unit 2.25 per two-bedroom unit
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit
<b><i>Civic and commercial uses</i></b>	<b><i>Minimum Number of spaces required</i></b>
Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats, based on maximum capacity
Bank or financial institution	1 per 300 square feet
Bed and breakfast	2 per building, plus 1 per guest room
Church	1 for each 4 seats in the sanctuary (sharing possible)
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Construction sales and service	1 per 500 square feet
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Funeral home	1 for each 4 chapel seats, plus 1 per employee
Government service	1 per 300 square feet
Hospital	1 for each bed
Hotel or motel	1 per guest room, plus 1 per 10 guest rooms
Library	1 per 500 square feet
Medical service	6 per doctor or dentist
Museum	1 per 500 square feet

Office, general	1 per 300 square feet
Recreation/entertainment, indoor	1 per 400 square feet
Recreational vehicle park	1 per camping space
Restaurant, fast food	1 per 75 square feet of customer service/dining area 1 per 200 square feet if no such service/dining area
Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail/service, general	1 per 250 square feet
Retail/service, furniture and bulky items	1 per 500 square feet
School, nursery, elementary and middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	2 per service bay, plus 1 per pump
Vehicle and equipment sales	1 per 500 square feet
Vehicle repair, general or limited	5 per service bay
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater
<b>Industrial and manufacturing uses</b>	<b>Minimum Number of spaces required</b>
Asphalt or concrete plant	Spaces to be provided pursuant to Schedule B
Auto wrecking or salvage yard	Spaces to be provided pursuant to Schedule B
Manufacturing, general	Spaces to be provided pursuant to Schedule B
Manufacturing, limited	Spaces to be provided pursuant to Schedule B
Research service	1 per 300 square feet
Warehousing	Spaces to be provided pursuant to Schedule B
Welding or machine shop	1 per 1,000 square feet or 1 per employee, whichever is greater

(c) *Off-street loading schedule.* Off-street loading space shall be provided in accordance with the following minimum standards:



## Off-Street Loading Schedule

<b><i>Retail and service, warehouse, wholesale, and manufacturing uses</i></b>	
<b><i>Floor area (square feet)</i></b>	<b><i>Minimum off-street loading requirement</i></b>
3,000 to 25,000	1
25,001 to 85,000	2
85,001 to 155,000	3
155,001 to 235,000	4
235,001 to 325,000	5
325,001 to 425,000	6
425,001 to 535,000	7
535,001 to 655,000	8
655,001 to 775,000	9
775,001 to 925,000	10
925,001 or more	10, plus 1 per 200,000 square feet above 925,001
<b><i>Office, nursing home, hospital, hotels and institutions</i></b>	
100,001 to 335,000	2
335,001 to 625,000	3
625,001 to 945,000	4
945,001 or more	5, plus 1 per 500,000 square feet above 945,001

### (3) *Computing off-street parking and loading requirements.*

(a) *Multiple uses.* Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

(b) *Fractions.* When measurements of the number of required spaces result in fractions, any fraction of one-half or less shall be disregarded and any fraction of more than one-half shall be rounded upward to the next highest whole number.

(c) *Area.* Unless otherwise noted in these provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.

(d) *Employees, students and occupant-based standards.* For the purpose of computing parking requirements based on the number of employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

(e) *Americans With Disabilities Act Requirements (ADA)*. Pursuant to federal ADA standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by person with physical disabilities. Responsibility for compliance with ADA, in all respects, shall rest with the applicant.

(4) *Location and design of off-street parking and loading spaces.*

(a) *On-site*. Except as otherwise specifically provided, required off-street parking and loading spaces shall be located on the same lot as the principal use.

(b) *Right-of-way*. Off-street parking spaces shall be prohibited within the public right-of-way; and no portion of the abutting street right-of-way shall, except for the driveway, be paved or used in any manner except as green area.

(c) *Setbacks*. In R-E, R-1, R-2, R-3-L, R-3, R-4, R-MF-16 and R-MH districts, required off-street parking shall not be located within a street (front or street side) setback. Parking in excess of the required number of spaces is allowed in the street setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.

(d) Where parking is to be provided in the street setback of a multi-family dwelling, there shall be established a parking setback line of ten feet. The area between the parking setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover not inconsistent with other landscaping provisions contained herein, and protected by interior curbing.

(e) In all commercial and industrial districts, required parking is allowed within the street setback; however, public right-of-way except for the driveway, shall not be graveled or hard-surfaced.

(f) *Ingress and egress*. Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to "back" onto a public right-of-way, except single family and duplex residential development on local streets.

(g) *Surfacing*. All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete, or brick, a minimum of 100 feet from the street frontage right-of-way. Areas designated for display of items for sale, e.g. vehicles, tractors, implements, ATVs, RVs and the like, will not be required to adhere to this requirement. Residential driveways, not in a platted subdivision shall be required to pave with asphalt, concrete, or brick, the portion of driveway from the edge of the street pavement to the property line or the right-of-way according to the master street plan, whichever is greater.

(h) *Drainage*. All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all storm water, and to not increase the storm water runoff onto the surface of adjoining properties or streets.



(i) *Curbing.* The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family and duplex residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. In addition, the principal building on the lot shall be protected by curbs and/or raised walkways. Rollover curbs shall not be permitted, and wheel-stops are expressly prohibited as alternatives to meeting curbing requirements. The area between the curb and the property line, except for the driveway(s), shall be maintained as green space.

(j) *Striping.* Off-street parking areas containing five or more spaces shall have parking spaces delineated by pavement striping.

(k) *Parking space dimensions.* Off-street parking spaces shall contain a minimum area of at least 180 square feet, with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet.

*Parking space dimensions for Residential Subdivision.* Off-street parking spaces located outside of a garage/carport structure shall contain a minimum area of at least 225 square feet per parking space, with a minimum width of nine (9) feet, and a minimum length of twenty-five (25) feet, measured from the street right-of-way.

(l) *Loading space dimensions.* Off-street loading spaces shall be a minimum of 14 feet by 45 feet in size, with a minimum height clearance of 18 feet.

(m) *Aisle dimensions.* Drive aisles within off-street parking lots shall comply with the following minimum width requirements:

<b><i>Parking angle</i></b>	<b><i>One-way aisle</i></b>	<b><i>Two-way aisle</i></b>
90°	24 feet	24 feet
60°	18 feet	24 feet
45°	16 feet	24 feet
30°	13 feet	24 feet

(n) *Timing of construction.* All required parking and loading spaces, driving aisles, and access ways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued by the city's inspection department if it is determined, based on information provided by the applicant, that inclement weather or other factors beyond the control of the applicant have prevented compliance with this "timing" requirement. Before approval of a temporary certificate of occupancy, the parking area subgrade and (SB2) stone base shall be compacted in accordance with the city's construction standards. The temporary certificate of occupancy shall expire at the end of one120 days or within such shorter timeframe specified by the inspection department at the time of approval of the certificate.

(o) *Use of off-street parking and loading spaces.* Required off-street parking spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.

(5) *Off-site parking.* Required off-street parking shall be located on the same lot as the use it is intended to serve; provided that a portion, not to exceed 25%, of the required off-street parking spaces may be located on a remote and separate lot from the lot on which the principal use is located, if the off-site parking complies with the following standards:

(a) *Ineligible activities.* Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, restaurants, convenience stores, or other convenience-oriented uses.

(b) *Location.* No off-site parking area shall be located more than 80 feet from the required parking lot of the use served, unless a shuttle service is provided. Distance shall be measured along the shortest legal, practical walking route.

(c) *Zoning classification.* Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.

(d) *Agreement for off-site parking.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the zoning official for recording. In addition, whether under the same ownership or not, a legal document to prevent development of the off-site parking area shall be executed and recorded. Recording of the agreement(s) shall take place before issuance of a building permit for any use to be served by the off-site parking area; or in the case of an existing building, prior to issuance of a certificate of occupancy.

(6) *Shared parking.* The zoning official, subject to appeal to the Planning Commission, may authorize a reduction in the number of required parking spaces for multiple use developments, and for uses that are located near one another that have different peak parking demands and operating hours. Shared parking shall be subject to the following standards.

(a) *Location.* Shared off-street parking spaces shall be located no further than 300 feet from the building and uses they are intended to serve unless shuttle service is provided.

(b) *Study.* An acceptable parking study provided by the applicant shall be submitted which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month, or year.

(c) *Agreement.* A shared parking plan shall be enforced through written agreement. Proof of recording of the agreement shall be presented prior to issuance of a building permit.



(d) *Revocation of certificate of occupancy.* Failure to comply with the shared parking provisions of this article shall constitute a violation of these regulations, and shall specifically be cause for revocation of a certificate of occupancy.

(7) *Outdoor parking/storage of boats, trailers, and recreational vehicles.* One boat, trailer and/or recreational vehicle may be parked outdoors on a lot in a residential district provided that:

(a) The boat, trailer or recreational vehicle is owned and used by a resident of the premises;

(b) The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight hours;

(c) The boat, trailer and/or recreational vehicle is located in the side or rear yard;

(d) The boat, trailer and/or recreational vehicle is not used for living, sleeping or housekeeping purposes;

(e) The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law; and

(f) The area must be kept free of weeds and debris.

(8) *Vehicle stack space for drive-thru facilities.* In addition to meeting the off-street parking requirements of the section, establishments with drive-thru facilities shall comply with the following minimum vehicle stack space standards.

(a) *Stack space schedule.*

1. Fast-food restaurants, 110 feet, as measured from the order station.
2. Banks, 70 feet, as measured from the teller drop.
3. Automatic car washes, 50 feet, as measured from the entrance.
4. Other uses, 30 feet, as measured from the pick-up window.

(b) *Design and layout.* Vehicle stack spaces shall be subject to the following design and layout standards.

1. Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.

2. Stack space lanes shall be a minimum of eight feet wide, and shall be separated from other internal driveways with painted lines or curbing.

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

## § 153.214 RESIDENTIAL COMPATIBILITY STANDARDS.

The compatibility standards of this section are intended to protect low density residential uses and neighborhoods from the adverse impacts sometimes associated with higher density residential uses and nonresidential development. The standards are intended to mitigate the effects of uses with operating and structural characteristics that are vastly different than those associated with single-family uses.

(A) *Applicability (triggering property)*. Compatibility standards shall apply to all development in the A, R-MF-16, C-1, C-2, and I zoning districts when such development is adjacent to "triggering property," which shall include all property:

(1) Occupied by a single-family dwelling unit that is a use permitted by-right in the zoning district in which it is located; or

(2) Zoned in an R-E, R-1, R-2, R-3L, R-3 or R-4 district.

(B) *Exemptions*.

(1) Notwithstanding the above applicability provisions, compatibility standards shall not be triggered by property that is public right-of-way, roadway, or utility easement.

(2) The following uses and activities shall specifically be exempt from compliance with compatibility standards:

(a) Construction of a use permitted by-right in an R-E, R-1, R-2, R-3L, R-3 or R-4 district;

(b) Structural alteration of an existing building when such alteration does not increase the building's square footage or height, or result in an increase in noise, hours of operation, or other factors which would impact surrounding properties; and

(c) A change in use that does not increase the minimum number of off-street parking spaces required.

(3) *Setback standards*. The following setback standards shall apply to all development that is subject to compatibility standards:

(a) *Small sites*. On sites with 20,000 square feet of area or less that also have less than two hundred feet (200') of street frontage, structures shall be set back from the lot line of triggering property one and one-half times the required setback.

(b) *Large sites*. On sites with more than 20,000 square feet of area or 200 feet of street frontage or more, structure shall be set back from the lot line of triggering property a minimum distance equal to twice the required setback for the zone in which the structure is to be located.

(c) *Surface-level parking and driveways*. Surface-level off-street parking areas and driveways shall not be subject to the above setback standards; however, such standards shall apply to parking structures. Surface-level parking areas shall be set back a minimum of ten feet from the lot line of triggering property.

(4) *Building height.* No structure shall exceed 35 feet in height within 50 feet from the lot line of triggering property.

(5) *Screening standards.* Decorative walls, vegetative screening, fencing, or earthen berms shall be provided to completely screen off-street parking areas, mechanical equipment, storage areas, and refuse collection areas from view of triggering property.

(6) *Site design standards.* The following additional site design standards shall apply to development that is subject to the compatibility standards of this section:

(a) No swimming pool, tennis court, ball field, or playground area (except those that are accessory to a single-family dwelling unit) shall be permitted within 50 feet of the lot line of triggering property.

(b) Dumpsters and refuse receptacles shall be located a minimum of 25 feet from the lot line of triggering property.

(c) Exterior lighting shall be designed and located to minimize light spilling onto surrounding property.

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

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**APPENDIX A**

	A	RE	R1	R2	R3L	R3	R4	R-MF-16				
Category Names	Agricultural	Residential Estates	Single-Family Residential 1 unit/acre	Single-Family Residential 2 units/acre	Single-Family Residential 3 units/acre (L)	Single-Family Residential 3 units/acre	Single-Family Residential 4 units/acre	Multi-Family Residential 16 units/acre				
Density	1 unit/5 acres	1 unit/2 acres	1 unit/acre	2 units/acre	3 units/acre	3 units/acre	4 units/acre	16 units/acre				
Minimum lot size	5 acres	2 acres	1 acre	1/2 acre	14,250 sf	9,600 sf	8,000sf	8,000sf (excluding townhomes)				
Duplex	NP	NP	NP	NP	NP	NP	Conditional, min. lot size 12,000 sf per duplex	12,000 sf per duplex				
Townhomes (single-family attached)	NP	NP	NP	NP	NP	NP	NP	Permitted (see minimum dimension specifications below)				
Multi-Family (3 or more connected units)	NP	NP	NP	NP	NP	NP	NP	Permitted 12,000 sf minimum lot size				
Nonresidential Uses	5 acres	2 acres	1 acre	1/2 acre	14,250	9,600	10,000	10,000 sf minimum lot size shall follow setbacks for "multi-family"				
Max Building Height	45'	35'	35'	35'	35'	35'	35'					
Max Number of Stories								4 stories* *The Fire Marshal will need to determine if adequate fire-fighting equipment is available when determining number of stories allowed.				
							Single Family Detached	Duplex	Single Family Detached	Duplex	Multi-Family	Townhome
Lot Width Minimum	240'	200'	120'	100'	100'	80'	70'	90'	70'	90'	100'	minimum exterior lot width 40'; minimum interior lot width 20'
Lot Depth Minimum	400'	200'	120'	120'	120'	120'	110'	110'	110'	110'	100'	110'
Setbacks for 1 and 2 Story Structures												
Front Setback	30'	30'	30'	30'	30'	30'	25'	25'	25'	25'	20'	20'
Side Setback	30'	30'	20'	10'	15'	7'	7'	7'	10'	10'	10'	10' Side- Zero Lot Line setback: A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed. The remaining side setback(s) shall be 10 feet.
Street Side Setback	30'	30'	25'	25'	25'	25'	20'	20'	20'	20'	20'	20'
Rear Setback	30'	30'	25'	25'	25'	25'	15'	15'	25'	25'	25'	25'
Setbacks for 3 and 4-Story Structures												
Front Setback	30'	30'	30'	30'	30'	30'	30'	30'	25'	25'	25'	25'
Side Setback	30'	30'	20'	10'	15'	7'	10'	10'	15'	15'	25'	15' Side- Zero Lot Line setback: A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed. The remaining side setback(s) shall be 15 feet.
Street Side Setback	30'	30'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'
Rear Setback	30'	30'	25'	25'	25'	25'	25'	25'	30'	30'	30'	30'
Maximum Impervious Area (structures)	45%	45%	55%	55%	55%	60%	60%		75%			

\* Fire Code regulations may require greater setback distances or fewer allowable stories than those given in this chart

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# Landscape Code

City of Tontitown

2-10-2021



### **153.212 LANDSCAPING, SCREENING, FENCING, AND BUFFERING.**

(A) *Purpose.* The purpose of this section 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.

(1) Landscaping enhances the environmental and visual character of the community.

(2) Green space requirements preserve and stabilize the area's ecological balance by establishing a healthier environment.

(3) 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.

(4) Fencing and landscaping provides visual screening and buffering, and screens between incompatible land uses.

(5) Landscaping enhances parking lots.

(6) Greenspace requirements can establish parks and other outdoor amenities for the citizens of the city.

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

(1) To moderate the effects of the sun, wind, and temperature changes;

(2) To filter pollutants from the air and release oxygen;

(3) To stabilize soil and prevent erosion;

(4) To encourage preservation of desirable trees; and

(5) To provide buffering between different uses and developments.

(C) *Applicability.* The requirements of this section shall apply to:

(1) New developments. All new public, private, and institutional developments;

(2) New parking lots or the expansion of existing parking lots in any zone which increases the parking to 60 or more spaces, or to parking lots with fewer than 60 spaces, when the Planning Board deems necessary for improved control and safety of pedestrians; and

(3) Additions. All additions to existing buildings.

(D) *Exemptions.*



(1) Any individual who purchases, builds, or remodels a single-family home located in any zoning district is exempt from all requirements of this section.

(2) *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.

(E) *General provisions.*

(1) *Sight distances.* Safe sight distances at intersections 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.

(2) *Replacement.* Vegetation planted or preserved according to an approved plan shall remain alive for a minimum of three years from the 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.

(3) *Irrigation.* Required landscaping shall be irrigated by one of the following methods:

- (a) Underground sprinkler system;
- (b) Automatic drip system; or
- (c) Hose bib attachment within 100 feet of all landscaped areas.

(4) *Artificial plants.* No artificial plants or vegetation shall be used to meet any standards of this section, unless expressly approved by the Planning Board.

(5) Street trees are the only required landscaping that may be planted in the right-of-way.

(6) *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, **unless shown otherwise in the adopted street section.**

(7) *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.

(F) *Landscape plans.*

(1) The landscaping plan is required to address the following requirements:

- (a) Street trees;

- (b) Landscape street frontage buffer;
- (c) Interior parking lot landscaping; and
- (d) Perimeter landscaping.

(2) 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:

(a) *Existing vegetation.* Location, general type and quality of existing vegetation, including trees on site;

(b) *Preservation.* Existing vegetation to be saved;

(c) *Protection.* Methods and details for protecting existing vegetation during construction and approved sediment control plan;

(d) *Proposed plants.* Location and labels for all proposed plants;

(e) *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;

(f) *Installation details.* Planning and installation details as necessary to ensure conformance with all required standards;

(g) *Sight triangle.* The sight triangle shall be indicated on the plan with dimensioned shaded area;

(h) *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.

(i) *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.

(G) *Street trees.* Per the adopted street sections, street trees **may be** required within the greenspace between the road and sidewalk. Street trees ~~are the only~~ landscaping that may be planted in the right-of-way. **Street trees shall be optional for Local Streets. Street trees shall be required for Collector, Minor Arterial, and Arterial streets per the adopted street sections.**

(1) *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.

(2) *Minimum trees required.* One street tree for every **50** linear feet is required. **Variations in spacing are allowable to accommodate driveways or on-street parking. Street trees shall generally be centered in the greenspace between the sidewalk and the curb.**

(H) Residential Subdivision Landscape Standards.

(1) *Applicability.* Required for newly constructed single-family and duplex residential subdivisions.

(a) Residential Large-Scale Developments shall follow the requirements for "multi-family residential" per this code section.

(2) One (1) shade tree per unit shall be placed in the front yard area of each lot. (i.e. single-family lots require one (1) shade tree to be placed, but duplex lots require two (2) shade trees to be placed)

(3) Minimum tree caliper size shall be two (2) inches. Caliper is defined as the measurement of the diameter of the trunk six (6) inches above ground level for trees up to four (4) inches in caliper size. Existing trees may be credited.

(4) Final occupancy permits may be held for those who fail to complete landscape requirements.

(I) *Landscaped street frontage buffer.* The street frontage buffer is the planting area parallel to the public street right-of-way.

(1) *Purpose.* The landscaped street frontage buffer serves one primary purpose: it provides an aesthetically pleasing transition from the public right-of-way to private property.

(2) *Prohibitions.* Parking, merchandise display, and off-street loading are prohibited in the landscaped street frontage buffer.

(3) *Exemptions.* Single-family and duplex residential subdivisions (designed with no more than one structure per lot) are not required to provide a landscaped street frontage buffer.

(4) *Buffer options: commercial/institutional.* The site plan for any development, other than a development that is exempt, shall show a landscaped street frontage buffer along all public rights-of-way. The applicant may choose a combination of options below.

(a) Ten-foot buffer strip; minimum 10 feet wide.

1. *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.

2. Sight visibility must be maintained.

(b) *Earth berm.*

1. *Minimum height.* Two and one-half feet higher than the finished elevation of the parking lot.



2. *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.

3. Sight visibility must be maintained.

(5) *Buffer options: multi-family residential.* 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 ten-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.

(6) *Buffer options: industrial.* The site plan for any development, other than a development that is exempt, shall show a landscaped street frontage buffer along all public rights-of-way. The applicant may choose a combination of options below.

(a) Ten-foot buffer strip; minimum ten feet wide.

1. *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.

2. Sight visibility must be maintained.

(b) *Earth berm.*

1. *Minimum height.* Two and one-half feet higher than the finished elevation of the parking lot.

2. *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.

3. Sight visibility must be maintained.

(J) *Interior parking lot landscaping.* Interior parking lot landscaping is the planting area within and adjacent to parking areas.

(1) *Purpose.* The interior parking lot landscaping:



(a) Provides necessary green space to give relief to expansive parking areas with nothing but asphalt;

(b) Trees provide shade and serve as windbreaks; and

(c) Planting islands assist with vehicular circulation.

(2) *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 60 or more spaces, or to parking lots with fewer than 60 spaces, when the Planning Board deems necessary for improved control and safety of pedestrians.

(3) *Exemptions.* Parking lot landscaping shall not apply to multi-level parking structures, or areas devoted to drive-thru lanes.

(4) *Requirements.* The site plan shall show interior parking lot landscaping. 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.

1. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the interior parking lot landscaping.

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 parking lot landscaping area functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(5) *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.

(a) *Compliance with standard.* Comply with the interior parking lot landscaping requirements and the required street frontage requirements.

(b) *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.

(K) *Interior site landscaping.* Interior site landscaping is immediately adjacent to the front of buildings.

(1) *Purpose.* The interior parking lot landscaping:

(a) Provides necessary green space to enhance and soften the transition from parking lot to the building; and

(b) Provides pedestrian friendly spaces.

(2) *Exemptions.* Single-family and duplex residential subdivisions (designed with no more than one structure per lot) are not required to provide interior site landscaping.

(3) *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.

(a) Living materials shall make up 80% of the curbed planting beds or raised planters.

(b) Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

(4) *Multi-family residential: interior site landscaping.* A minimum of seven 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. At least one large tree or two small trees per every 10 units is required. Grouping is preferred.

(a) Living materials shall make up 80% of the planting beds or raised planters.

(b) Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

(5) *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.

(a) Living materials shall make up 80% of the curbed planting beds or raised planters.

(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 building landscape functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(L) *Landscaped perimeter buffer.* Perimeter landscaping is a peripheral planting strip along rear and side lot lines that separates uses.

(1) *Purpose.* Perimeter landscaping:

(a) Defines parking areas;

(b) Prevents two adjacent lots from becoming one large expanse of pavement;

(c) Provides protection for residential uses and other marginally compatible uses;

(d) Provides vegetation in densely developed areas; and

(e) Enhances the appearance of individual properties.

(2) *Requirements.* The site plan for any development shall show perimeter landscaping in addition to the landscaped street frontage buffer required.

(a) *Width.* A five-foot landscaped strip is required along the side and rear lots lines of a development.

(b) *Minimum number of trees.* One large tree or two small trees per every 50 feet.

(c) *Groundcover.* All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.

1. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the perimeter landscaping.

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 perimeter landscaping area functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(3) *Vehicular access.* The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.

(4) *Adjacent properties.* The five-foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.

(5) *Pavement.* No pavement may extend within five feet of the property line on any lot unless it is included with an ingress/egress location.

(6) *Special standards: commercial/institutional.* When located adjacent to and visible from a residential use, increased landscaping standards shall be applied to reduce noise and light glare and to ensure residents' privacy.

(a) *Physical barrier.* A physical barrier shall be required that shall be a minimum of six feet in height and may consist of wood or masonry fencing, rock or brick walls, berms, or a combination of these methods.

(b) Trees and shrubs shall be placed in front of the barrier (on the developing side) to reduce parking lot noise.

(c) Trees and shrubs planted shall provide 60% coverage of the physical barrier within two years.

(d) At least 50% of the trees and shrubs shall be evergreen.

(e) *Tree preservation.* Existing healthy trees (as detailed in division (M)) may be included as a portion of the landscaped screening.

(f) If a large buffer is retained, these standards may be reduced based on expected reduction of impact. The Planning Board shall approve any reduction.

(7) *Special Standards: industrial.* In addition to the standard required for commercial/institutional.



(M) *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 non-living, 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.

(1) *Location.*

(a) *Drainage.* Trees shall not be placed where they interfere with site drainage.

(b) *Overhead utilities.*

1. 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.

2. *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.

(c) *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.

(d) *Fire hydrants.* Landscaping shall not be placed within five feet of a fire hydrant.

(e) *Right-of-way.* Trees are required to be placed in the right-of-way per the adopted street sections, with the exception of Local Streets. Local streets may choose to place street trees if desired. When street trees are required, they shall be centered within the greenspace between the road and sidewalk.

(2) *Minimum size.* Upon planting, plant material shall meet the following minimum requirements.

(a) *Shrubs.* Shrubs planted to satisfy the standards of this section shall be a minimum of three gallons in size.

(b) *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 inches.

(c) *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.

(d) *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.

(e) *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.

(3) *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 fraction thereof, another differing species shall be used.

(N) *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.

(1) *Healthy trees.*

(a) 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 four-inch caliper to be counted towards tree preservation.

(b) *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.

(2) *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.

(a) *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:

1. Total diameter of all preserved trees from 4 to 7.9 inches allows the reduction of one required parking space;
2. Total diameter of all preserved trees from 8 to 22.9 inches allows the reduction of two required parking spaces;
3. Total diameter of all preserved trees from 23 to 29.9 inches allows the reduction of three required parking spaces; and
4. Total diameter of all preserved trees 30 inches and larger allows the reduction of four required parking spaces.

(b) *Reduction of required trees.*

1. Not to include a reduction to required street trees.

2. 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 within a preserved buffer area.

3. 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:

A. Total diameter of the preserved tree from 4 to 7.9 inches allows the reduction of one required large tree;

B. Total diameter of the preserved tree from 8 to 22.9 inches allows the reduction of two required large trees;

C. Total diameter of the preserved tree from 23 to 29.9 inches allows the reduction of three required large trees; and

D. Total diameter of the preserved tree 30 inches or greater allows the reduction of four required large trees.

(3) *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.

(O) *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:

(1) 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;

(2) The repair or replacement of required landscape structures (for example, fences and walls) to a structurally sound condition;

(3) The regular maintenance, repair, or replacement, where necessary, of any landscaping required by this section; and

(4) *Continuous maintenance of the site. 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.

(P) *Alternative methods of compliance.*

(1) *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 the landscaping requirements of this section.

(2) *Procedure.*

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

(b) *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:

1. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this section;
2. 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;
3. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site;
4. The site involves unusually shaped parcels that make full compliance impossible or impractical;
5. Due to a change of use of an existing site, the required landscaping exceeds the amount that can be approved;
6. Safety considerations require a change; or
7. 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.

(Q) *Dedication and landscaping of neighborhood parks.*

(1) *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.

(2) *Ratios for dedication.*

(a) Developers of residential developments with more than five lots/units, shall dedicate, in perpetuity, to the city, 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 acre in size, the "in lieu of fee" will automatically be required.

(b) *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.

(3) *Fee payment in lieu of land conveyance.* In lieu of land dedication, the developer shall contribute to the City 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 two years and make adjustment suggestions to the City Council.

(a) *Use of fees.* Fees in lieu of dedication for parks shall be deposited in the 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.

(b) *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.

(4) *Location of park.* The most suitable location for a 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.

(5) *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.

(6) *Required essential landscaping and infrastructure.*

- (a) Community green space with bench seating (minimum two benches);
- (b) Open turf grass area;
- (c) ADA accessible walking trail or path into public area;
- (d) Trash receptacle to be approved by the city. The city will be responsible for trash disposal;
- (e) Water and sewer connections (there will be no charge for these taps);
- (f) Other utility easements for nature connections;
- (g) Hose bib connection;
- (h) Vegetation planning requirements below. These can be altered at the discretion of the Planning Board when native trees, shrubs, grasses, and other vegetation are preserved.

1. Minimum of four large trees;
2. Minimum of two small trees;
3. Other perennial vegetation;

(i) A minimum of one active use enhancement per acre shall be incorporated into the park;

1. Children's playground equipment;

2. Splash pad park;

3. Sports facility, which can include bocce court, volleyball court, basketball court, tennis court, soccer field, disk golf course, or other facility approved by the Planning Board;

4. Hiking or biking trails; or

5. Other amenity approved by the Planning Board;

(j) Other optional amenities to include (not required):

1. Lighting;

2. Picnic tables;

3. Barbeque grills;

4. Restroom facilities;

5. Gazebo or pavilion;

6. Rain garden or other display garden; or

7. Drinking fountain.

(7) *Park naming rights.* The developer shall have naming rights for the park, subject to approval by the Planning Board.

(8) *Ownership and maintenance/replacement.* Dedicated parks shall be maintained by the city.

(9) *Park design and construction standards.* Developer shall design and construct neighborhood parks in compliance with all city design standards for public improvements.

(10) *Performance bond; landscaping installation, maintenance, and replacement of landscaping materials.*

(a) *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 §§ [152.030](#) through [152.032](#) regarding actions to be taken by the city and developer depending on the type of bond submitted.

1. If all landscaping has been installed per the plan, the performance bond shall be for 50% of the cost of material and labor.



2. If the landscaping has not been installed, the bond shall be for 100% of the cost of material and labor.

3. The bond shall be irrevocable and shall list the city as sole beneficiary.

4. The bond shall be in a form approved by the City Attorney.

5. The bond shall run for no less than 24 months.

6. 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.

7. 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.

(b) *Installation.* All landscaping shall be installed in accordance with the standards and requirements of this section. 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.

(c) *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 make every effort to finish the project within the given timeframe for completion that both parties have agreed to.

(d) *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.

(R) *Recommended trees and shrubs.*

(1) *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.

(a) All plant materials should be spaced appropriately in accordance with mature plant size.

(b) Plant materials intended for screening as required should be spaced appropriately to form the appropriate screen upon maturity.

(c) *Perennials and grasses.* No restrictions, natives and drought tolerant species preferred.

(2) *Recommended plant lists.*

(a) *Large trees.*

<b>Common Name</b>	<b>Scientific Name</b>	<b>Not to be Used as a Street Tree</b>
American Beech	<i>Fagus grandifolia</i>	X
American Holly	<i>Ilex Opaca</i>	X
American Hophornbeam	<i>Ostrya virginiana</i>	
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>	
Chinese Pistache	<i>Pistacia chinensis</i>	
Chinkapin Oak	<i>Quercus muehlenbergii</i>	
Crape Myrtle	<i>Lagerstroemia indica</i>	
Frontier Elm	<i>Ulmus carpinifolia x parvifolia</i>	
Goldenrain Tree	<i>Koelreuteria paniculate</i>	
Japanese Zelcova	<i>Zelcova serrata</i>	
Jefferson Elm	<i>Ulmus americana 'Jefferson'</i>	
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>	

Sugarberry	<i>Celtis laevigata</i>	
Swamp White Oak	<i>Quercus bicolor</i>	
Sycamore	<i>Platanus occidentalis</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>	

(b) *Small/understory trees.*

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

(c) *Shrubs.*

<b>Common Name</b>	<b>Scientific Name</b>
Boxwood	<i>Buxus sinica</i> var. <i>insularis</i> 'Wintergreen'
Butterfly Bush	<i>Buddleia davidii</i>



Chokeberry	<i>Aronia species</i>
Compact Japanese Holly	<i>Ilex crenata 'Compacta'</i>
Cotoneaster	<i>Cotoneaster species</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria (dwarf cultivars)</i>
Elderberry	<i>Sambucus nigra</i>
English Laurel	<i>Prunus laurocerasus</i>
Fothergilla	<i>Fothergilla gardenia</i>
Foster's Holly	<i>Ilex attenuata 'Fosteri'</i>
Fragrant Sumac	<i>Rhus aromatic 'Gro- Low'</i>
Glossy Abelia	<i>Abelia grandiflora</i>
Hydrangea	<i>Hydrangea species</i>
Inkberry Holly	<i>Ilex glabra</i>
Mugo Pine	<i>Pinus mugo</i>
Nellie R. Stevens Holly	<i>Ilex 'Nellie R. Stevens'</i>
Pieris	<i>Pieris species</i>
Pyracantha	<i>Pyracantha species</i>
Seagreen Juniper	<i>Juniperus X pfitzeriana 'Sea Green'</i>
Spiraea	<i>Spiraea species</i>
Summersweet	<i>Clethra alnifolia</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>



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# Sign code revisions to add R4 zoning

City of Tontitown

2-10-2021

## SIGNS

### § 153.184 SIGN REGULATIONS BY DISTRICT.

(A) The following signs shall be permitted to the zoning districts as indicated below. Specific requirements for each sign are shown on the following pages. All of the following sign types require a sign permit.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3L</i>	<i>R-3</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Awning	--	--	--	--	--	--	--	--	--	A	A	A
Canopy	--	--	--	--	--	--	--	--	--	A	A	A
Crown	--	--	--	--	--	--	--	--	--	A	A	A
Digital	--	--	--	--	--	--	--	--	--	--	A*	A*
Double Post	--	--	--	--	--	--	--	--	--	A	A	A
Monument	--	C	C	C	C	C	C	C	C	A	A	A
Projecting	--	--	--	--	--	--	--	--	--	A	A	A
Pylon	--	--	--	--	--	--	--	--	--	--	A*	A*
Sandwich Board	--	--	--	--	--	--	--	--	--	A	A	A
Shingle	--	--	--	--	--	--	--	--	--	A	A	A
Subdivision	A	A	A	A	A	A	A	A	A	A	A	A
Wall	--	--	--	--	--	--	--	A	--	A	A	A
Window	--	--	--	--	--	--	--	A	--	A	A	A
-- = Not Allowed A = Allowed A* = Allowed with Restrictions (See specific sign type section for additional details) C = Allowed through a Conditional Use Permit issued by the Planning Commission												

(B) Any sign type that is not listed above shall be prohibited.

(C) The following regulations for each sign type shall apply to any permitted use in a zoning district.

(1) *Awning sign.*



(a) *Description.* A sign where graphics or symbols are painted, sewn or otherwise adhered to the awning fabric or material that is soft or flexible as an integrated part of the awning itself.

(b) *Sign dimensions.*

1. Width (max): no greater than 75% of the width or depth of the awning.
2. Area (max): no maximum.

(c) *Regulations.*

1. Shall not extend beyond the awning itself.
2. Only awnings over ground story windows may contain a sign.

(d) *Number of signs.* In a single tenant situation, one awning sign permitted per awning. The awning sign can be placed on either the front or side valance. For multi-tenant awning signs, and a canopy that extends the length of several tenants, each tenant may have a maximum of nine square feet on the awning sign.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-3L</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Awning	--	--	--	--	--	--	--	--	--	A	A	A

(2) *Canopy sign.*



Photo Credit wikipedia.org



(a) *Description.* Any sign that is mounted, painted, or otherwise applied on or attached to an architectural canopy or structural protective cover over an outdoor area.

(b) *Sign dimensions.*

1. Width: no greater than 75% of the width or depth of the canopy.
2. Height of text or graphics on the canopy: two feet.
3. Sign area (max): 24 square feet.
4. Sidewalk/driving surface clearance (min): ten feet.

(c) *Regulations.*

1. For awnings attached to a building:
  - a. The canopy sign shall not extend beyond the length or the width of the canopy, but it may extend either above or below the canopy.
  - b. Only awnings over ground story windows may contain a sign.
2. For free standing awnings: the canopy sign shall not extend beyond the length or the width of the canopy, but it may extend either above or below the canopy.

(d) *Number of signs.*

1. For awnings attached to a building: one canopy sign permitted per each customer entrance. The canopy sign can be placed on either the front or side valance.
2. For free-standing awnings: one sign allowed per side for up to two sides maximum.

(e) *Total sign area allocation.*

1. For awnings attached to a building: the combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.
2. For free-standing awnings; no more than 24 square feet total of awning signage allowed per free-standing awning.



	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Canopy	--	--	--	--	--	--	--	--	--	A	A	A

(3) *Crown sign.*



(a) *Description.* A wall sign extending not more than three feet from the building facade located on the upper horizontal band of a building at least two stories in height.

(b) *Sign dimensions.*

1. Sign area: 250 square feet.
2. Height: eight feet.
3. Projection from facade: three feet.
4. Width: no greater than 75% of the width or depth of the facade.

(c) *Regulations.*

1. Only permitted on buildings at least two stories in height.
2. Cannot be placed below the start of the highest floor and cannot extend above the roofline.
3. Cannot cover architectural detail or windows.

(d) *Number of signs.*

1. No more than one crown sign per building facade and no more than two crown signs per building are allowed.
2. No more than one tenant can be identified on the sign.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the

wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF-16	R-MH	C-I	C-2	I
Crown	--	--	--	--	--	--	--	--	--	A	A	A

(4) *Digital signs.*



(a) *Description.* An electronically displayed sign that is static or changes messages by any electronic process or remote control. Permanently affixed sign which is wholly independent of a building for support. Must be part of a freestanding sign type (monument, pylon, or double post). A digital sign shall only be used in conjunction with another non-digital signage type.

(b) *Sign height, dimensions and number of signs.*

1. *Sign face area and height.* The digital sign shall be no greater than 50% of the size of the accompanying non-digital signage. Reference the individual sign area restrictions for signage type with which the digital sign will be paired.

2. Only one digital sign is allowed per street frontage of each lot.

3. Total structure height (max). Divided into two sections of intensity:

a. Forty (40) feet in height or less (from the eastern city limits boundary) to the intersection of Via De Tonti and HWY 412.

b. Twenty-five (25) feet in height or less (from the intersection of Via De Tonti and HWY 412 to the western city limits).

(c) *Regulations.*

1. Allowed only within 100 linear feet (to the north or south) of the HWY 412 R.O.W.

2. Must be set back at least ten feet from the front lot line and ten feet back from the side lot line.

3. Must have highway frontage.
4. No sign message shall be displayed for a period of time less than eight seconds.
5. No sign shall display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.
6. No sign shall include any audio message.
7. Transition from one message to another message shall appear instantaneous as perceived by the human eye.
8. Each sign message shall be complete in itself and shall not continue on a subsequent sign message.
9. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of 0.3 foot candles above ambient light, as measured using a foot candle (Lux) meter.
10. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-3L</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Digital	--	--	--	--	--	--	--	--	--	--	A*	A*

\* Allowable only within 100 feet of the HWY 412 R.O.W.

(5) *Double post sign.*



- (a) *Description.* A permanently affixed sign which is wholly independent of a building for support where the primary support is supplied by two posts.

(b) *Sign dimensions.*

1. Sign area (max): 48 square feet.
2. Height (max): eight feet.

(c) *Regulations.* Must be set back at least five feet from the front lot line and five feet back from the side lot line.

(d) *Number of signs.*

1. Only one double post sign structure (or monument or pylon sign\*) is allowed per street frontage.

2. Where more than one monument sign or pylon sign\* is allowed on the same property, must be a minimum of 500 feet apart.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Double Post	--	--	--	--	--	--	--	--	--	A	A	A



(6) *Pylon sign.*

(a) *Description.* A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including signs mounted to the ground.

(b) *Sign dimensions.*

1. Sign area (max): 100 square feet.
2. Total structure height (max): Divided into two sections of intensity:

a. Forty (40) feet in height or less (from the eastern city limits boundary) to the intersection of Via De Tonti and HWY 412.



b. Twenty-five (25) feet in height or less (from the intersection of Via De Tonti and HWY 412 to the western city limits).

(c) *Regulations.*

1. Single tenancy use only.
2. Allowed only within 100 linear feet (to the north or south) of the HWY 412 R.O.W.

(d) *Number of signs.*

1. Only one pylon sign structure\* (or double post/monument sign) is allowed per street frontage of each lot.
2. Where more than one monument sign or pylon sign structure\* is allowed on the same property, must be a minimum of 500 feet apart.
3. Placement of the sign within the lot may be evaluated by the planning official to achieve appropriate spacing of signage between adjoining lots (the goal is to keep signage evenly spaced along ROWS when possible).

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Pylon	--	--	--	--	--	--	--	--	--	--	A*	A*

\* Allowable only within 100 feet of the HWY 412 R.O.W.

(7) *Monument sign.*



(a) *Description.* A free-standing and permanently affixed sign that is supported by a solid base (other than poles) and such that no air space is visible within or between any portion of the sign display area and sign structure.

(b) *Sign dimensions.*

1. Sign area (max per sign):

- a. One tenant: 48 square feet.
- b. Two to three tenants: 72 square feet.
- c. Four to five tenants: 84 square feet.
- d. Six or more tenants: 108 square feet.

2. Height (max): eight feet for one to three tenants, 12 feet for four to six or more tenants.

(c) *Regulations.*

1. Must be set back at least ten feet from the front lot line and ten feet from the side lot line.

2. The size of the monument sign for applicants which include more than six tenants may be increased by conditional use permit approved by the Planning Commission.

(d) *Number of signs.*

1. Only one monument, double post or freestanding sign structure is allowed per street frontage.

2. Where more than one monument, double post or freestanding sign structure is allowed on the same property, must be a minimum of 500 feet apart.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Monument	--	C	C	C	C	C	C	C	C	A	A	A

(8) *Projecting sign.*



(a) *Description.* A sign, other than a wall sign, that is mounted to the wall or surface of a building or structure and which is supported by a wall of a building or structure and projects from the building by 12 inches or more.

(b) *Sign dimensions.*

1. Height (max): four feet (mounted below second floor); eight feet (mounted between the second and third floor); twelve feet (mounted above the third floor).
2. Spacing from building facade (max): one foot.
3. Projection width (max): six feet.
4. Depth (max): one foot.
5. Clear height above sidewalk (min): ten feet.

(c) *Regulations.*

1. May be mounted on a building corner when the building is at the intersection of two streets.
2. Top of the sign may be no higher than the top of the building.

(d) *Number of signs.* A maximum of one projecting sign or shingle sign for each individual building or for each public/private street or parking area frontage side of an individual building.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-3L</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Projecting	--	--	--	--	--	--	--	--	--	A	A	A

(9) *Sandwich board sign.*



(a) *Description.* A movable sign not secured or attached to the ground or surface upon which it is located.

(b) *Sign dimensions.*

1. Sign area (max): nine square feet.
2. Sign height (max): three feet.
3. Sign width (max): two and one-half.

(c) *Regulations.*

1. Must be removed and placed indoors at the close of business each day.
2. Cannot obstruct vehicular, bicycle or pedestrian traffic and must comply with ADA clearance and accessibility.
3. May not be illuminated.

(d) *Number of signs.* Each ground floor tenant can have one sidewalk sign located adjacent to the primary facade on the sidewalk with the principal customer entrance or up to eight feet from the facade.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-I</i>	<i>C-2</i>	<i>I</i>
Sandwich Board	--	--	--	--	--	--	--	--	--	A	A	A

(10) *Shingle sign.*





(a) *Description.* A small projecting sign that hangs from a bracket or support and is located over or near a building entrance.

(b) *Sign dimensions.*

1. Sign area (max): nine square feet.
2. Height (max): three feet.
3. Spacing from building facade (max): one foot.
4. Projection width (max): three feet.
5. Depth (max): six inches.
6. Clear height above sidewalk (min): ten feet.

(c) *Regulations.*

1. Must be located within five feet of an accessible building entrance.
2. Must be located below the window sill of the second story on a multi-story building or below the roof line of a single story building.
3. May not be illuminated.

(d) *Number of signs.* A maximum of one projecting sign or shingle sign for each individual building or tenant of each individual building or for each public/private street or parking area frontage side of an individual building.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Shingle	--	--	--	--	--	--	--	--	--	A	A	A

(11) *Subdivision sign.*



(a) *Description.* A permanently affixed sign which is wholly independent of a building for support attached along its entire width to a continuous pedestal or wall that is used to identify the entry to or name of an entire development.

(b) *Sign dimensions.*

1. Sign area (max): 32 square feet (sign face).
2. Height (max): eight feet (sign face).

(c) *Regulations.*

1. Must be set back at least ten feet from the front property line and 15 feet from the side property line.
2. Must not impair vision or line of sight for incoming or outgoing traffic.

(d) *Number of signs.* Two subdivision signs are allowed per street frontage, one on each side of an entrance street into a subdivision.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Subdivision	A	A	A	A	A	A	A	A	A	A	A	A

(12) *Wall sign.*



(a) *Description.* Means any attached sign other than a projecting sign or a banner sign, which is permanently attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

(b) *Sign dimensions.* Sign area: a maximum of 15% of the square footage of the building's wall area facing a public/private street, drive, or parking area.

(c) *Regulations.*

1. Must be no higher than the highest point of the second floor of the building.
2. Must not extend above the roof line or above a parapet wall of a building with a flat roof.
3. May not cover architectural detail.
4. May not extend above the lower eave line of a building with a pitched roof.

(d) *Number of signs.*

1. While there is no set restriction on the maximum number of signs allowed, multi-tenancy buildings must consider that the percentage of wall area must be divided between multiple tenants (if a building has multi-tenancy occupancy).

2. In no event shall the sign area for available frontage used by multiple tenants exceed the maximum sign area set forth in this section.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet per wall.

	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-3L</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Wall	--	--	--	--	--	--	--	A	--	A	A	A

(13) *Window sign.*



(a) *Description.* An attached sign that is not a temporary sign and which is attached to, painted on, etched or otherwise adhered to a window or which is displayed within 12 inches of the window and is legible from outside the window.

(b) *Regulations.*

1. No permit required.
2. Limited to 35% of window area.

(c) *Number of signs.* No restrictions.



	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-3L</b>	<b>R-4</b>	<b>R-MF-16</b>	<b>R-MH</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Window	--	--	--	--	--	--	--	A	--	A	A	A

(D) Sign regulations enacted for overlay districts within the city shall supersede this code to the extent that such regulations conflict.

(E) *Illumination.* No sign shall be erected or maintained which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

(1) Illumination is restricted to incandescent or LED light bulbs rated at 150 watts, or an amount not to exceed 2,700 lumens.

(2) *Internal illumination.* Internally illuminated signs must be lit from a concealed source. No exposed lamps or tubes shall be permitted. The minimum depth for illuminated signs shall be four inches. Illuminated signs may be set out from the mounting surface in order to create a silhouette effect.

(3) *External illumination.* Signs may be externally illuminated as provided herein, but external illumination must direct light at the sign only and avoid spill-over of light.

(F) *Changeable copy signs.* Manual and electronic changeable copy on monument signs shall be permitted provided that the manual or changeable copy does not exceed 40% of the sign area and the copy rotation may not exceed three times per day.

(G) *Procedures.* Applications for a sign permit must be processed through the Building Official.

(H) *Non-conformity and modification.*

(1) A non-conforming sign cannot be replaced by another non-conforming sign, including face material, except that the substitution or interchange of poster panels or painted boards on a non-conforming signs is permitted. All non-conforming signs must be maintained in a safe manner and in good repair.

(2) Minor repairs and maintenance of non-conforming signs is permitted. However, no structural repairs, structural changes or changes in the size, shape or technology currently being used on the sign is permitted except to bring the sign out of its non-conforming condition and into compliance with the requirements of this code.

(3) Non-conforming signs may stay in place until one of the following conditions occurs:

(a) The business advertised ceases at that location, except that the substitution or interchange of poster panels or painted boards is permitted;

(b) The deterioration of the sign makes it a hazard; or

(c) The sign has damage exceeding 50% of its replacement cost.

(l) *Compliance.* Any non-conforming sign which is altered, relocated, replaced in a manner not specifically covered in division (F) above must be brought immediately into compliance with all provisions of this code.

(Ord. 2018-05-786, passed 5-1-18)

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# Special Conditions Applicable to Certain Uses Zoning-self storage units

City of Tontitown

1-26-2021

## **SPECIAL CONDITIONS APPLICABLE TO CERTAIN USES**

### **§ 153.173 SELF STORAGE UNITS.**

#### **i. Residential (mini) Self-Storage Units**

- (1) The following are prohibited uses of self-storage facilities or areas:
  - (a) Storage of flammable or hazardous chemicals, petroleum products, or explosives;
  - (b) No retail sales, commercial, wholesale, miscellaneous sales shall take place from individual units or other areas within the area surrounding the individual units with the exception of the commercial frontage or office buildings onsite;
  - (c) The servicing, repairing, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment; The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment by the renters of the units and/or renters of any outdoor storage space.
  - (d) Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
- (2) No individual storage unit may be used for the purposes of operating a business except for the purpose of providing storage for a business that is located off-site.
- (3) Any outside storage including boats, trailers, equipment, vehicles and/or vehicles/equipment for rental use shall be screened and shielded from view (in all seasons) of adjacent property or a public right -of-way.
- (4) Self-storage uses located within or adjacent to any district other than Eu-L (Exclusive Use Landfill) I (Industrial) or LI (Light Industrial) shall provide the following:
  - (a) A minimum eight (8) foot tall masonry wall or other opaque decorative fence (as approved by the City) on the sides and rear of the property.
  - (b) The frontage of the property shall not contain any visible exterior roll up doors. Along with driveways and parking areas, the Right of Way frontage of the property shall consist of one or a mixture of the following structure types:
    - (1) the facility office, manager's residence, retail or other mixed use type buildings (as allowable within the zoning category where the development is located)
    - (2) storage buildings with facades mimicking standard commercial/office development
    - (3) Any portion of the Right of Way frontage not containing buildings or entrance gates must be completely screened from the ROW by a six foot (6') tall minimum height masonry wall/decorative fencing facing the street.
    - (4) Entrance gates may not be chain link. The gates shall be an opaque material such as wood, decorative metal, or other material.
      - a. Decorative non-opaque gates such as wrought iron or other similar type gates may be acceptable at the discretion of the Planning Commission.



- (c) All lighting shall not exceed twenty (20) feet in height and be full cut-off, shielded lighting as defined by the IESNA. Such lighting shall be directed to prevent the trespass of light onto the adjacent residential district or use.
- (5) Self-storage units located adjacent to a A, RE, R-1, R-2, R3-L, R-3, R-4 district or existing single family detached or duplex residential use shall provide the following (in addition to all above requirements in this section):
  - (a) An undisturbed vegetative buffer of at least fifteen (15) feet in width adjacent to those areas bordering the residential district or use. Where such buffer does not have dense pre-existing vegetation at least eight (8) feet in height, one (1) tree for each thirty (30) linear feet and one (1) shrub for each five (5) linear feet shall be planted and maintained within the buffer. Fast growing species that provide dense evergreen foliage shall be used to meet these requirements and shall be subject to the approval of the Planning Official.

### **153.083 COMMERCIAL AND INDUSTRIAL USES AND EXCLUSIVE USE-LANDFILL 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.

<b>Zoning Districts</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>	<b>EU-L</b>
Warehouse, residential (mini) storage	NP	P	P	NP

## Renee Biby

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**From:** Shane Taylor <taylorism88@gmail.com>  
**Sent:** Friday, February 26, 2021 10:52 AM  
**To:** Renee Biby  
**Subject:** Re: unfilled seat on the Planning Commission  
**Attachments:** Shane Taylor - Resume 2021.docx

Renee,

Thank you for the information. I am interested in the seat. My address is 726 Kensington Cove, Springdale, AR 72762. I am a licensed attorney and have included my resume which will list my job history and experience. One item I will add that is not listed on my resume is that at my prior residence in Fayetteville, I was on my POA for several years. I held the title of VP of my POA for my final year before we relocated. We were a very active POA and responsible for a subdivision consisting of 200+ homes.

Do I need to be present at the Tuesday meeting for the vote?

Thank you,

Shane Taylor  
[taylorism88@gmail.com](mailto:taylorism88@gmail.com)

On Fri, Feb 26, 2021 at 8:50 AM Renee Biby <[adminasst@tontitownar.gov](mailto:adminasst@tontitownar.gov)> wrote:

Good Morning,

Yes, there is a seat available on the Planning Commission. You must live within the city limits of the City of Tontitown to apply. The Planning Commission meets on the fourth Tuesday of each month at 6:00 p.m., there are sometimes special meetings that would be requested and are usually on Tuesdays as well. Currently, we are revising our City Code and have tentatively scheduled Work Sessions for the next few months on the second Tuesday of each month at 6:00 p.m. The duties of the Planning Commission are to make sound decisions regarding development and zoning issues within the City of Tontitown. Staff reports are given with recommendations based upon code regulations and generally accepted planning and engineering practices. However, for development issues, the Planning Commission makes the determination as to whether or not to approve, deny or recommend approval or denial to the City Council. The Planning Commission also acts as the Board of Zoning Adjustments, the Board of Zoning Adjustments hears Variance from Chapter 153 Zoning requests and appeals of interpretations that the Planning Official has made administratively. If you would like to apply please just reply to this email with your name, address, experience you may be able to offer, etc., and I will forward your application onto the City Council for determination.

The City Council will be voting on this on Tuesday, March 2<sup>nd</sup>, so it would be great if you could get that to me today to give them more time for consideration.

Thanks so much for your interest in the City of Tontitown.

Respectfully,

Renee Biby

Administrative Assistant/Grants Administrator

City of Tontitown

PO Box 305

Tontitown, AR 72770

(479) 361-2700

**From:** Shane Taylor <[taylorism88@gmail.com](mailto:taylorism88@gmail.com)>

**Sent:** Friday, February 26, 2021 8:09 AM

**To:** Renee Biby <[adminasst@tontitownar.gov](mailto:adminasst@tontitownar.gov)>

**Subject:** unfilled seat on the Planning Commission

Is this seat still available? If so, can you give more details on the duties and when they meet?

Thank you,

Shane Taylor

[taylorism88@gmail.com](mailto:taylorism88@gmail.com)



# Shane M. Taylor, Esq.

918-708-5521  
Springdale, AR 72762  
Shanetaylorjd@gmail.com  
<https://www.linkedin.com/in/shanetaylorjd>

## EXECUTIVE SUMMARY

Practical executive leader with over five years of progressive and strategic success in developing, executing and governing compliance and general counsel assistance for 700+ employees nationwide. Recognized at exceling in leveraging leadership expertise in the field of government contracting and consulting executives on matters of policy implementation and strategic application of regulatory requirements.

## PROFESSIONAL SKILLS

- Legal Research & Analysis
- Contract Drafting & Negotiations
- Risk Management
- Litigation Management
- Regulatory Compliance
- Government Contracting

## PROFESSIONAL EXPERIENCE

**Central Research, Inc., Lowell, AR**  
**Associate General Counsel, Director of Compliance & Licensing**  
**October 2015 – Present**

- Drafted and Negotiated Agreements, including Teaming Agreements, Subcontractor Agreements, Vendor Agreements, and Non-Disclosure Agreements, including contracts for Cisco, 8x8, RingCentral, Microsoft, and many other well know technology companies.
- Provide legal advice to executives regarding issues including federal contractual obligations, lawsuits, and risk exposure.
- Created and reviewed Privacy Policies, EULAs, Hosting Agreements, BAA for multiple entities including subsidiaries utilizing a software solutions and mobile platform.
- Drafted EFT and ACH policies to permit over the phone authorization for recurring pre-authorized payments
- Developed and implemented compliance program for 300+ employees on Federal Department of Education contract and sharing legal responsibilities for 700+ employees.
- Coordinated with outside Counsel on mediation, arbitration, or litigations
- Managed and settled several class actions simultaneously.
- Received tax credit saving 1% of payroll costs of expansion locations.
- Remained up to date on federal & state laws like the CCPA as well monitoring CFPB, FCC, to monitor regulatory developments.
- Work intently advising Executives to design and implement corporate policies and procedures
- Managed team of compliance professionals to adhere to highest levels of ethical conduct
- Implemented monitoring software resulting in the saving of more than a thousand work hours annually
- Completed thorough review of compliance policies based on all fifty states and local laws.
- Oversee the management of state and local licenses and bonds.

**Arkansas Dentistry & Braces / Snaggle Tooth Management, Fayetteville, AR**  
**Corporate Compliance Counsel**  
**June 2015 – September 2015**

- Created corporate policies and performed research on an extensive variety of health regulatory topics, including the non-compete agreements, licensing laws, False Claims Act, Stark Law, and Anti-Kickback Statutes.
- Reviewed and drafted employment, non-confidentiality, lease, and other agreements
- Authored disclaimers for advertisements including commercials, flyers, and contests.
- Worked with outside legal counsel to coordinate action plans and litigation.
- Worked intimately with Executives, IT to investigate and mitigate potential risk

**Showalter & Associates, Fayetteville, AR**  
**Associate Attorney**  
**April 2014 – June 2015**

- Performed expansive legal research in Family, Criminal, and Wills and Trust matters.
- Assembled case materials by collecting and organizing documents, reports, and evidence.
- Prepare legal drafts for legal forms and documents, including complaints, declarations, discovery requests, responses, and other pleadings.
- Conducted intake interviews with potential clients to evaluate matters
- Attended court appearances and represented clients' legal interests.
- Researched laws, statutes, regulations, court opinions, including precedents and reasoning
- Aided clients with filling out forms, responding to Attorney requests and navigating the legal system

**EDUCATION**

---

**Juris Doctor, 2013**

University of Arkansas School of Law, Fayetteville, AR

- Arkansas Trial Lawyers Association Member
- Treasurer – Arkansas Trial Lawyers Association
- Native American Law School Association Member

**Bachelor of Arts, 2010**

Northeastern State University, Tahlequah, OK

- Vice President – Native American Law Student Association (NALSA) – 2012
- Treasurer – NALSA – 2013
- Inter-Fraternity Council; Gamma Rho Chi
- Philanthropy Chairman for Kappa Sigma Fraternity

## Renee Biby

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**From:** Jason Duggar <buildmconstruction@gmail.com>  
**Sent:** Tuesday, February 9, 2021 1:06 PM  
**To:** Renee Biby  
**Cc:** Gene McCartney; Amber Ibarra; Arthur Penzo; Larry Ardemagni; Don Doudna; Tim Burress  
**Subject:** Letter Of Intent - Jason Duggar

The intent of this letter is to provide expression of the mutual interest for the following parties included in this email.

Greetings,

I am a resident of the city of Tontitown and a small business owner specializing in construction. My business, Build Master Construction, is a residential and commercial construction company that has served the area of NWA for several years. In doing so we have had the opportunity of working along side several planning commissions, city boards and city officials.

Should the city see fit, I would appreciate the opportunity to serve along side the planning committee in the hopes of bettering our community through its planning needs.

Sincerely, Jason Duggar.

Contact Information:

Phone: (479) 770-9340

Email: [buildmconstruction@gmail.com](mailto:buildmconstruction@gmail.com)

Address: 548 Arbor Acres Ave, Springdale AR. 72762

## Renee Biby

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**From:** Randle Moore <rwmoore@mac.com>  
**Sent:** Friday, February 12, 2021 11:54 AM  
**To:** Renee Biby  
**Cc:** Gene McCartney; Amber Ibarra; Arthur Penzo; Larry Ardemagni; Tim Burress; Don Doudna  
**Subject:** Letter of Intent to Apply for Planning Commissioner Position

To whom it may concern:

Please accept this correspondence as a Letter of Intent for application for the open planning commissioner position

My family and I moved to the area in 2017. We fell in love with Tontitown, and purchased a home on S. Barrington Rd. I am currently employed with University of Arkansas System as Director of the Veterinary Diagnostic Laboratory. I would love to help the community, and serve as needed.

Please contact me with any questions or concern that you may have. My contact information is:

Randle Moore  
2817 S. Barrington Rd.  
936-591-4848 (mobile)

Thank you for your consideration of this request. I look forward to meeting with you.

Randy Moore



# Watson Law Firm, P.A.

Watsonlawfirm.com  
es@watsonlawfirm.com

Springdale, Arkansas | 1982

Ph: (479) 750-7717  
Fax: (479) 750-7723

**Jeff H. Watson | Josh A. Daniels**

**December 10, 2020**

Mayor Paul Colvin Jr.  
PO BOX 305  
Tontitown, Arkansas 72770

**VIA EMAIL ONLY**

RE: City Planning Board Application Letter

Dear Mayor Paul Colvin Jr.,

My name is Joshua Daniels, and I am a current resident of Tontitown, Arkansas. I am a 2007 graduate of Har-Ber High School and grew up living in Har-Ber Meadows. I attended both undergraduate school and law school at the University of Arkansas and now I am an attorney, working with Jeff Watson at the Watson Law Firm.


I have lived in Tontitown for a little over a year and a half now, in the Towne Park Apartments, but I have always had friends that lived in Tontitown and over the years I have spent a lot of time in Tontitown. I have always loved Tontitown - the history, the scenery, the Grape Festival. Tontitown is a place I am happy to call home. When it came time to find a house, Tontitown was the only place I wanted to live.

In February, I am moving into a newly constructed house in the Mantegani subdivision. My parents live in Tontitown as well, in the Liberty Estates subdivision, in a house that they plan to stay and retire in, and eventually pass on to their children. My hope is to buy some land and build my dream home in Tontitown when the time is right. My daughter, Hannah, will attend the new elementary school which will open around the same time that she begins kindergarten. I am deeply invested in Tontitown, and I wish to see it grow and flourish. With three generations of my family now living in Tontitown, it is important to look at the present and future of Tontitown and how our planning decisions will not only affect current residents and our children, but also future residents.

I believe that I would be an asset to the planning board of Tontitown. While in law school, I helped found the Property Law Society and I was a research assistant to Law Professor John Marshfield on various municipal issues. I have always found property law and municipal law incredibly interesting, something that some people may find odd. For me though, it just carries so much meaning in our lives – even if we are not acutely aware of it all the time. I have read the comments from Tontitown residents on apartments and long-term growth. I believe that my experiences in both living in an apartment community and then moving to a single-family home, with plans to build a dream home here, will give a perspective that other members may not have. I know many others who have lived in my apartment community that bought homes in the Tontitown area after falling in love with the city, and others who are exploring the option. I understand the issues facing the planning board, and I believe that my unique perspective may alleviate some of the fears that other residents may have. Firsthand experience with these issues allows me to communicate on a level that others may not. In addition, my experience working with Jeff Watson, a long-time Springdale City Council Member, has also given me perspective on working in civil service. I understand the thoughtfulness that is required when making decisions that impact the community as a whole.

I appreciate your time in reading this letter, and I appreciate your consideration to this position. Feel free to reach out via e-mail at [josh@watsonlawfirm.com](mailto:josh@watsonlawfirm.com) or via my cell phone at 479-236-6757.

Thank you,

  
Joshua A. Daniels, ESQ.

## Renee Biby

---

**From:** Brandon Slaughter <brand.slaughter5@gmail.com>  
**Sent:** Wednesday, February 3, 2021 10:12 AM  
**To:** Renee Biby  
**Subject:** Re: Planning Commission Seat

Hi Renee,

My address is 707 Via Perona Rd, Tontitown AR 72762. I have lived in Tontitown since October of 2019. I am married to my wife Britney for 12 years and we have 4 daughters. I am currently working for South Tradition Real Estate. I have been doing that for the last 1.5 years. Prior to that I was a drilling consultant for some major operators across the United States. Everything in my oilfield career took a lot of planning. We were constantly planning and scheduling upcoming jobs with multiple companies at all times. All those activities needed to be done and on time to save our company money and downtime. I became very efficient at it and have used some of the same experiences to help offer a better service to my clients today. I honestly want to serve because I have a desire to be a bigger part of our community. This is where my children grow up and I want to be able to participate in making it the best place it can be for them and all of the people of our town. I don't know how to do that other than through volunteering and service of others. Thank you for your time.

Brandon

On Wed, Feb 3, 2021 at 10:01 AM Renee Biby <[adminasst@tontitownar.gov](mailto:adminasst@tontitownar.gov)> wrote:

Hi Mr. Slaughter,

Can you please provide the following information for me to distribute to the City Council?

1. What is your address?
2. How long have you been a citizen of Tontitown?
3. What is your experience? (where do you work, what is your background, experience with Planning, economic development, etc.)
4. Why do you want to serve on the Planning Commission?

Thank you,

Renee Biby

**From:** Brandon Slaughter <[brand.slaughter5@gmail.com](mailto:brand.slaughter5@gmail.com)>  
**Sent:** Wednesday, February 3, 2021 9:53 AM  
**To:** Renee Biby <[adminasst@tontitownar.gov](mailto:adminasst@tontitownar.gov)>  
**Subject:** Planning Commission Seat

I saw on Facebook that there is an open seat on the planning commission. I would love the opportunity to submit my name in the hat of potentials.

Brandon

## Renee Biby

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**From:** Penny Baskin <sugarbearsmommy4jesus@yahoo.com>  
**Sent:** Tuesday, December 1, 2020 8:07 PM  
**To:** Renee Biby  
**Subject:** Planning committee position

Hi this is Penny Baskin and I am very interested in the opening on the planning committee. I have attended every meeting every week since the city counsel meeting when Tim and I we up for alderman seat via zoom. Please let me know what I need to do to further my chances to get on the planning committee. Thank You, Penny Baskin

Sent from my iPhone



## Renee Biby

---

**From:** Jaron McTee <jaron.mctee@gmail.com>  
**Sent:** Friday, December 11, 2020 2:51 PM  
**To:** Renee Biby  
**Subject:** Re: Tontitown government and website

Hi Ms. Biby,

I would be interested in applying for the planning board position opening on January 4th.

As a resident, father, and dedicated citizen. I am very interested in the long-term growth and success of Tontitown. I hold a Master's degree and have lived in Tontitown, for over three years at 156 Ranalli Ave, Springdale, AR 72762.

Let me know if you need anything additional for this request?

Thanks!

-Jaron McTee

On Wed, Dec 2, 2020 at 3:37 PM Jaron McTee <[jaron.mctee@gmail.com](mailto:jaron.mctee@gmail.com)> wrote:

Hi Renee,

Hope all is well. Please see communication below as I would love to help support Tontitown, where possible. I'm offering to volunteer some services and better understand how I can help our city (technologically and beyond), as we continue to grow.

I'd love to formally setup some time to meet with Mayor Colvin and you, in the near future, if possible?

Thanks in advance for your time and consideration. Cheers!

-Jaron McTee

----- Forwarded message -----

From: **Jaron McTee** <[jmctee@arvest.com](mailto:jmctee@arvest.com)>  
Date: Wed, Dec 2, 2020 at 3:34 PM  
Subject: FW: Tontitown government and website  
To: [jaron.mctee@gmail.com](mailto:jaron.mctee@gmail.com) <[jaron.mctee@gmail.com](mailto:jaron.mctee@gmail.com)>



**Jaron McTee** | Digital Product Owner  
[326 SW A Street](#) | [Bentonville, AR 72712](#)  
O. [\(479\) 464.1644](tel:(479)464.1644) | E [jmctee@arvest.com](mailto:jmctee@arvest.com)

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**From:** Tim Burress <[ward3-2@tontitownar.gov](mailto:ward3-2@tontitownar.gov)>  
**Sent:** Wednesday, December 2, 2020 3:32 PM  
**To:** Jaron McTee <[jmctee@arvest.com](mailto:jmctee@arvest.com)>  
**Subject:** Re: Tontitown government and website

Information Security REMINDER: This is an **EXTERNAL EMAIL**. Stop and think before **RESPONDING** or **CLICKING** a link or **OPENING** attachments.

Jaron,

It was good to see you, too. I'm sorry I didn't get a chance to speak with you. Thank you for attending the city council meeting. It's probably often quite boring, but citizen involvement is crucial to how we run the city—we represent you and our fellow neighbors.

I'm sure the city website does take bids and, in my opinion, could use an upgrade. I don't know why they updated my name, but not Mrs. Ibara's. I'm sure you'll notice all manner of things that could be improved upon. Go for it. I'd reach out to the mayor's administrative staff. Renee Biby can be reached at [adminasst@tontitownar.gov](mailto:adminasst@tontitownar.gov).

I'm looking forward to seeing you again soon.

At your service,

Tim Burress, Alderman

City of Tontitown

On Dec 2, 2020, at 1:34 PM, Jaron McTee <[jmctee@arvest.com](mailto:jmctee@arvest.com)> wrote:

Alderman Burress,

Great to see you last night sir! Thanks for connecting and exposing me to Tontitown city government. Your wife and children are lovely!

Quick questions:

- What is the mayor's email, as I don't see it on the website. Assumingly, [mayor@tontitownar.gov](mailto:mayor@tontitownar.gov) ?
- Who runs the city's website? I noticed Gene's email address on the City Council page (and Henry's name is still showing versus Amber's)
  - Does the city take bid? 😊

Thanks again for your service and sprouting friendship. Cheers!

In Christ,

Jaron McTee

<image001.png>

**Jaron McTee** | Digital Product Owner  
[326 SW A Street](#) | [Bentonville, AR 72712](#)  
O [\(479\) 464.1644](tel:(479)464.1644) | E [jmctee@arvest.com](mailto:jmctee@arvest.com)

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**\*\*\* Arvest Confidential \*\*\***

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-Jaron McTee  
(479) 426-9449  
[jaron.mctee@gmail.com](mailto:jaron.mctee@gmail.com)

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-Jaron McTee  
(479) 426-9449  
[jaron.mctee@gmail.com](mailto:jaron.mctee@gmail.com)



**RESOLUTION NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**A RESOLUTION TO AMEND RESOLUTION NO. 2017-12-664R SETTING  
THE SALARY OF THE MAYOR OF THE CITY OF TONTITOWN**

**WHEREAS**, on December 5th, 2017 the City Council of the City of Tontitown, Arkansas adopted Resolution No. 2017-12-664R setting the salary of the Mayor for the City of Tontitown at Three Thousand Five Hundred Dollars (\$3,500) per month; and

**WHEREAS**, Arkansas Code Annotated § 14-42-113 allows for adjustment in the compensation of the office of Mayor during the term for which they have been elected or appointed; and

**WHEREAS**, the current rate of compensation for the office of Mayor is deemed to be insufficient and should be adjusted; and

**WHEREAS**, the City Council of the City of Tontitown desires to increase the salary for the office of Mayor to \$50,000 annually.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the city of Tontitown, Arkansas:

**Section 1:** That the salary for the office of Mayor, beginning immediately and continuing through the expiration of the term of office is hereby adjusted to be raised to \$50,000 annually and be paid in accordance with the City's employee salary payment policy.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021**

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

ATTEST:

\_\_\_\_\_  
Rhonda Ardemagni, Clerk-Treasurer

**RESOLUTION NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**A RESOLUTION RAISING THE SALARY OF THE CLERK-TREASURER OF THE CITY OF TONTITOWN**

**WHEREAS**, the City Council of the City of Tontitown recognizes the need for an increase in salary of the Clerk-Treasurer for the City of Tontitown; and

**WHEREAS**, the current rate of compensation for the Clerk-Treasurer is deemed to be insufficient and should be adjusted; and

**WHEREAS**, the City Council of the City of Tontitown desires to increase the salary for the position of Clerk-Treasurer to \$15,000 annually.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the city of Tontitown, Arkansas:

**Section 1:** That the salary for the Clerk-Treasurer, beginning immediately and continuing through the expiration of the term of office is hereby raised to \$15,000 to be paid in accordance with the City's employee salary payment policy.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021**

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

ATTEST:

\_\_\_\_\_  
Rhonda Ardemagni, Clerk-Treasurer  
(SEAL)

**ORDINANCE NO. 2021-\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE AMENDING CHAPTER 31.01: PLANNING COMMISSION OF THE TONTITOWN MUNICIPAL CODE OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY.**

**WHEREAS**, Chapter 31.01: PLANNING COMMISSION sets forth the membership, terms, meetings and other rules governing the Planning Commission of the City of Tontitown; and

**WHEREAS**, the City Council of the City of Tontitown has reviewed and discussed these rules and now finds it to be in the best interest of the citizens of the City of Tontitown to amend Chapter 31.01: PLANNING COMMISSION of the Tontitown Municipal Code to set forth the compensation paid to Planning Commission members for attendance at certain meetings and workshops.

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

**Section 1.** That Chapter 31.01: PLANNING COMMISSION, of the Tontitown Municipal Code is hereby revised to add a Section (F) as follows:

(F) Compensation. The Planning Commission shall receive compensation for attendance at regular Planning Commission meetings, special Planning Commission meetings and Planning Commission workshops at a rate which shall equal one-half (1/2) the compensation for the City Council per related meeting as set forth in Chapter 30.02(C) of the Tontitown Municipal Code. Specifically, regular Planning Commission meetings shall be compensated at the rate of one-half (1/2) of the compensation set for the City Council for regular City Council meetings, Planning Commission work sessions shall be compensated at the rate of one-half (1/2) of the compensation set for the City Council for Committee of the Whole meetings, and special Planning Commission meeting shall be compensated at the rate of one-half (1/2) of the current compensation set for the City Council for special City Council meetings unless the special Planning Commission meeting is held on the same night as the Planning Commission workshop meeting, in which case there shall be no compensation for the special Planning Commission meeting.

**Section 2.** The rest and remainder of Chapter 31.01: PLANNING COMMISSION shall remain unchanged and in full force and effect.

**Section 3.** This Ordinance shall be considered to be in effect starting from January 1, 2021.

**Section 4.** In the event that any section, paragraph, subdivision, clause, phrase, or

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

**Section 5.** Declaration of Emergency. It is hereby found and determined that Section Chapter 31:01: PLANNING COMMISSION, of the Tontitown Municipal Code should be immediately amended in order to provide for compensation for the Planning Commission members. 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 \_\_\_\_\_, 2021.

APPROVED:

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

ATTEST:

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



**ORDINANCE NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE REZONING APPROXIMATELY 1.74 ACRES OF REAL PROPERTY LOCATED AT 1620 LIBERTY AVENUE, LOCATED WITHIN THE CITY LIMITS OF TONTITOWN ARKANSAS FROM RESIDENTIAL ESTATES R-E TO RESIDENTIAL R-3.**

**WHEREAS**, a rezoning application was submitted and filed with the City of Tontitown on or around the 29<sup>th</sup> day of January 2021 by Blew & Associates on behalf of Kristin McCloud in order to request the City of Tontitown to rezone approximately 1.74 acres of real property located at 1620 Liberty Avenue, Springdale, Arkansas 72762, Parcel Nos. 830-37692-280 and 830-37692-800, within the city limits of Tontitown, Arkansas, described therein and as depicted in the survey and legal description attached as Exhibit “A” from Residential Estates R-E to R-3 Residential; and

**WHEREAS**, after due notice as required by law and a public hearing, the City of Tontitown, Arkansas, Planning Commission has heard all persons desiring to be heard on the question and has ascertained that the rezoning requested should be approved and has recommended approval to the Tontitown City Council; and

**WHEREAS**, the City Council of the City of Tontitown, Arkansas, has determined that said rezoning complies with the adopted plans and criteria of the City of Tontitown which are designed to protect the health, safety, and welfare of the citizens; and

**WHEREAS**, it is the desire of the City Council that the application be approved as submitted and said property be rezoned to R-3 Residential.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Tontitown, Arkansas:

Section 1: The City of Tontitown hereby changes the zone classification from Residential Estates R-E to R-3 Residential, for certain real property located at 1620 Liberty Avenue, located within the City Limits of the City of Tontitown Arkansas, more particularly described as:

[See Exhibit “A” attached hereto]

and as depicted on the survey attached hereto as Exhibit “B”

Section 2: That the official Zoning Map of the city of Tontitown, Arkansas, shall be amended to reflect this change within thirty (30) days of the date of this ordinance. Any ordinance or parts thereof in conflict with this ordinance is hereby repealed and declared invalid.

Section 3: That the Clerk-Treasurer shall cause this document, and any other documents needed to accomplish the intent of this ordinance, to be properly filed as required by law.

**PASSED AND APPROVED** this \_\_\_\_ day of February, 2021

APPROVED:

\_\_\_\_\_  
PAUL COLVIN, JR., Mayor

ATTEST:

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

**Exhibit "A"**

Part of the Southwest Quarter (SW  $\frac{1}{4}$ ) of the Southwest Quarter (SW  $\frac{1}{4}$ ) of Section Thirty-five (35), Township Eighteen (18) North, Range Thirty-one (31) West of the Fifth Principal Meridian in Washington County, Arkansas, and being more particularly described as follows: Commencing at a point North 89 degrees 04' 26" East 528.00 feet from the Northwest corner of said Southwest Quarter (SW  $\frac{1}{4}$ ) of the Southwest Quarter (SW  $\frac{1}{4}$ ); thence South 00 degrees 32' 30" East 660.00 feet, thence North 89 degrees 04' 26" East 148.50 feet; thence South 00 degrees 32' 30" East 222.00 feet to the Point of Beginning; thence North 89 degrees 04' 26" East 196.50 feet; thence South 00 degrees 32' 30" East 228.00 feet; thence South 89 degrees 04' 26" West 48 feet; thence South 00 degrees 32' 30" East 210.00 feet; thence South 89 degrees 04' 26" West 148.50 feet; thence North 00 degrees 32' 30" West 438.00 feet to the Point of Beginning, containing 1.74 acres more or less. Subject to the County Road on the South Side, and easements for ingress and egress along the West side of the above-described premises





**RESOLUTION NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**A RESOLUTION TO ADOPT A REVISED TONTITOWN WATER  
SERVICE MAP**

**WHEREAS**, due to growth within the City of Tontitown, it is necessary to adopt a revised Tontitown Water Service Map; and

**WHEREAS**, the revised Tontitown Water Service Map, attached as Exhibit “A”, prepared in collaboration with the Washington Water Authority, has been reviewed and discussed by the City Council; and

**WHEREAS**, the City Council, after thorough consideration, believes that adoption of the Tontitown Water Service Map is in the best interests of the citizens of the City of Tontitown.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Tontitown as follows:

The revised Tontitown Water Service Map, attached hereto as Exhibit “A”, and filed for record with the City Clerk-Treasurer at the Tontitown City Hall, is hereby adopted by the City Council of the City of Tontitown.

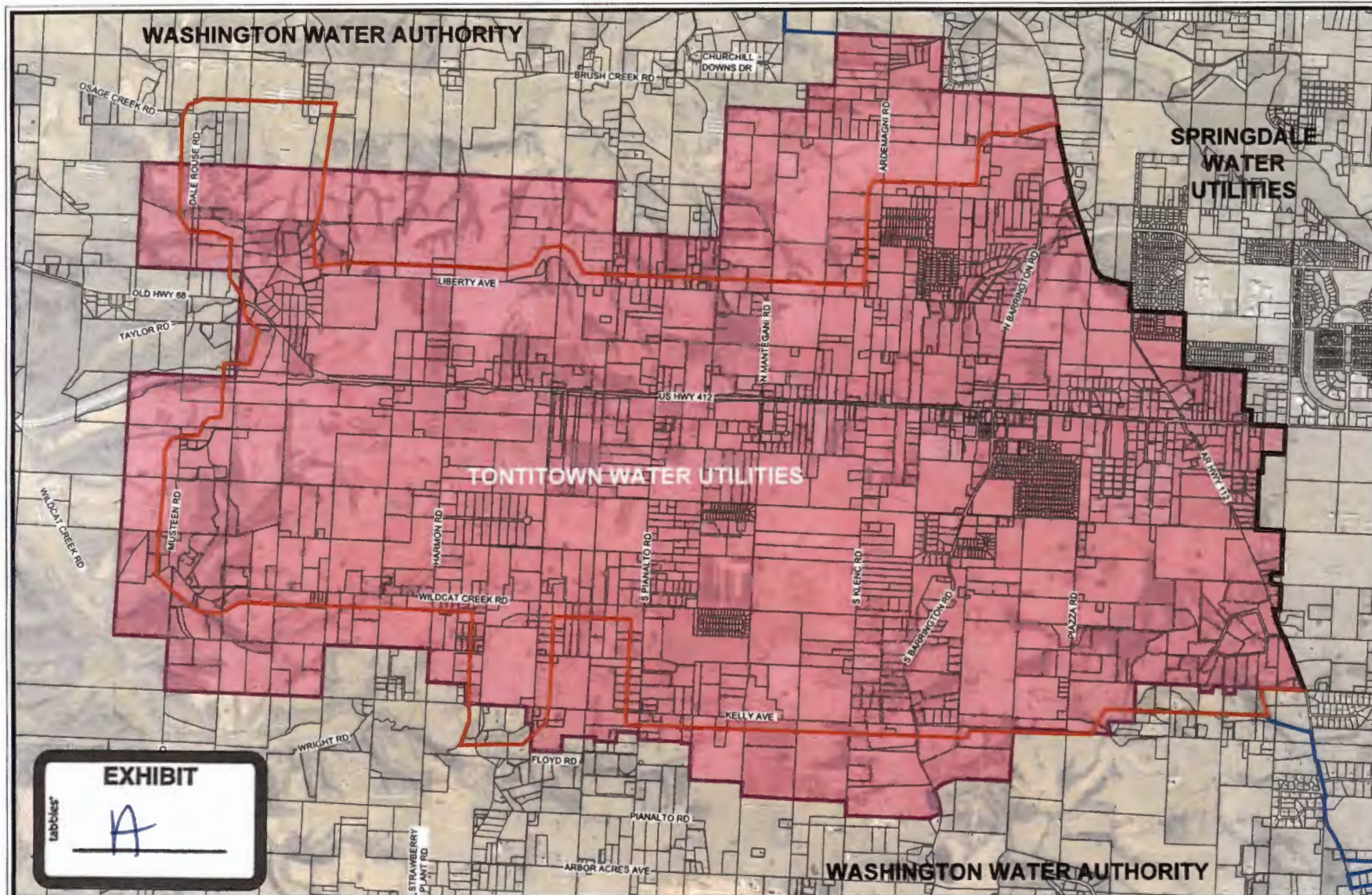
**PASSED AND APPROVED** this \_\_\_\_ day of February, 2021.

APPROVED:

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

ATTEST:

\_\_\_\_\_  
Rhonda Ardemagni, Clerk-Treasurer  
(SEAL)



Washington Water Authority  
12567 West Highway 62  
Farmingdon, AR 72730  
479-267-2111

TONTITOWN UTILITIES - WWA SERVICE BOUNDARY MAP  
WASHINGTON COUNTY, ARKANSAS

Drawn By: BZJ  
Checked By:

Date: FEB 2021  
Scale:  
Revisions:

Sheet  
MAP 01

# EXHIBIT

A



0 1,600' 3,200'

## LEGEND

- TONTITOWN WATER UTILITIES SERVICE BOUNDARY
- WASHINGTON WATER AUTHORITY SERVICE BOUNDARY
- TONTITOWN WATER UTILITIES / WASHINGTON WATER AUTHORITY SERVICE BOUNDARY (WASHINGTON COUNTY RDA / CITY OF TONTITOWN FILED 1997)
- TONTITOWN WATER UTILITIES / WASHINGTON WATER AUTHORITY SERVICE BOUNDARY (2021)
- TONTITOWN WATER UTILITIES SERVICE TERRITORY (2021)
- WASHINGTON COUNTY PARCEL BOUNDARY

**SERVICE AREA BOUNDARY AGREEMENT**  
THIS AGREEMENT IS HEREBY MADE BY AND BETWEEN THE CITY OF TONTITOWN AND THE WASHINGTON WATER AUTHORITY. THE SHADED AREA SHALL BE THE SERVICE TERRITORY FOR TONTITOWN WATER UTILITIES. THIS MAP IS A FOLLOW UP TO THE SERVICE AREA BOUNDARY BETWEEN TONTITOWN AND WASHINGTON COUNTY RDA MAP APPROVED BY THE CITY OF TONTITOWN AND WASHINGTON COUNTY DEVELOPMENT AUTHORITY. APPROVED IN 1992 AND FILED IN 1997 AT THE WASHINGTON COUNTY CLERKS OFFICE. ALL AREAS BEYOND SAID SHADED BOUNDARY IN WASHINGTON COUNTY SHALL BE SERVED BY WASHINGTON WATER AUTHORITY. BOTH PARTIES AGREE TO ALLOW THE OTHER PARTY TO UTILIZE ITS UTILITY EASEMENTS IN AREAS OF PARALLEL MAINS.

AS APPROVED BY  
THE CITY OF  
TONTITOWN,  
ARKANSAS

DATE

MAYOR: PAUL COLVIN JR.

DATE

PUBLIC WORKS DIRECTOR: JAMES CLARK

AS APPROVED BY  
WASHINGTON  
WATER  
AUTHORITY

DATE

WWA CHAIRMAN: RANDY GOGLEN

DATE

WCEDA CHAIRMAN: RICK JOHNSON

DATE

GENERAL MANAGER: JOSH MOORE



**ORDINANCE NO. 2021-\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND  
AUTHORIZING THE MAYOR TO ENTER INTO A COST SHARE  
AGREEMENT WITH SOLOMON PROPERTIES, LLC FOR A  
WATERLINE CONNECTION FOR HICKORY MEADOWS;  
DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.**

**WHEREAS**, Solomon Properties, LLC has submitted construction plans to the City of Tontitown, Arkansas to connect the Hickory Meadows to an 8" city waterline on Kelley Road; and

**WHEREAS**, the City of Tontitown would benefit from an extension of this waterline from 1350' to 2750' to connect instead at Klenc Road, with the new waterline providing more length, access and looping as well as benefiting better future development; and

**WHEREAS**, the City of Tontitown received and reviewed a proposal from Solomon Properties, LLC, for this additional work in the amount of \$120,250.00; and

**WHEREAS**, after the City staff and City Council have studied the alternatives available for the installation and considering the offer of Solomon Properties, LLC, the City Council has found that exceptional circumstances exist, that the offer provided by Solomon Properties is advantageous to the City of Tontitown and that competitive bidding should be waived in order for the work to be completed; and

**WHEREAS**, the City Council agrees that it is in the best interest of the City of Tontitown and its citizens to provide funding in the amount of \$120,250.00 for the new waterline for Hickory Meadows and to authorize the Mayor to take any and all measures to enter into a cost share agreement with Solomon Properties, LLC to complete the work; and

**WHEREAS**, it is in the interest of the citizens of Tontitown to best use the resources of the City and provide reliable equipment for the safety and welfare of the citizens of Tontitown, by waiving competitive bidding.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Tontitown, Arkansas;

**Section 1.** That pursuant to state law and applicable city ordinances, the City Council hereby waives the requirements of competitive bidding for labor and installation of waterline as described in the proposal attached hereto as Exhibit "A" in the amount of \$120,250.00.

**Section 2.** The Mayor is hereby authorized, on behalf of the City of Tontitown, to take all measure necessary to give effect to authorization by the City Council set forth in this Ordinance, including the negotiation and execution of cost share agreement if necessary.

**Section 3.** That all ordinances or resolutions or orders, and parts thereof, in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4.** That in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

**Section 5.** Emergency Clause: The City Council for the City of Tontitown, Arkansas, has determined that it is essential that the improvement of the of the water system take place without delay, in order to increase capacity of the water system and to best serve the citizens of Tontitown Therefore, it is declared that an emergency exists and that this ordinance, being necessary for immediate service, shall be in force and take effect immediately from and after its passage, approval, and publication.

**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**APPROVED:**

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

**ATTEST:**

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

**ORDINANCE NO. 2021-\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND  
AUTHORIZING THE MAYOR TO ENTER INTO A COST SHARE  
AGEEMENT WITH WHITAKER PROPERTIES AND LS6  
CONSTRUCTION FOR THE INSTALLATION OF SEWER LINE  
EXTENSION PROJECT AND RELATED WORK; DECLARING  
AN EMERGENCY AND FOR OTHER PURPOSES**

**WHEREAS**, Whitaker Properties is the owner of certain property and is developing a commercial project in the City of Tontitown requiring the extension of a city sewer line to the property in order to provide sanitary sewer service; and

**WHEREAS**, the City of Tontitown will benefit from the extension of the sewer line for the project as it would allow sanitary sewer service to be extended to other properties and for continued growth to occur in the city; and

**WHEREAS**, the City of Tontitown received and reviewed a proposal from LS6 Construction, who is be performing the work for Whitaker Properties, and is offering to provide the labor, installation and materials for the work for the estimated total cost of \$77,875.00 with certain alternatives; and

**WHEREAS**, after the City staff and City Council have studied the options available for the installation and considering the proposal of LS6 Construction, the City Council has found that exceptional circumstances exist, that the offer provided by LS6 Construction is advantageous to the City of Tontitown, that there will be savings to the citizens of the City of Tontitown if the city shares in the cost of the work so that sewer service can be further extended in the city, and that LS6 Construction performs reputable work and that competitive bidding should therefore be waived; and

**WHEREAS**, the City Council agrees that it is in the best interest of the City of Tontitown and its citizens to provide funding in the amount of approximately sixty percent (60%) of the proposed \$77,875.00 and outlined below for in the labor and installation of the work; and

**WHEREAS**, it is in the interest of the health, safety and welfare of the citizens of Tontitown and the best use the resources of the City for the health, safety and welfare of the citizens of Tontitown, by waiving competitive bidding.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Tontitown, Arkansas;



**Section 1.** That pursuant to state law and applicable city ordinances, the City Council hereby waives the requirements of competitive bidding for labor and installation of the sewer line extension as described in the proposal attached hereto as Exhibit "A".

**Section 2.** The Mayor is hereby authorized, on behalf of the City of Tontitown, to take all measure necessary to give effect to the authorization by the City Council set forth in this Ordinance and also that the Mayor is authorized to negotiate and enter into a contract with Whitaker Properties and LS6 Construction where by the city would be responsible for sixty percent (60%) of the project cost and Whitaker Property would be responsible for forty percent (40%) of the project cost. Further, if under the Additional items in the attached proposal, rock excavation or bonding is required, the city and Whitaker Properties shall share those costs at the same sixty percent (60%) and forty percent (40%) rates reflected above.

**Section 3.** That all ordinances or resolutions or orders, and parts thereof, in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4.** That in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

**Section 5.** Emergency Clause: The City Council for the City of Tontitown, Arkansas, has determined that it is essential this work commence without delay in order to take advantage of mobilization or equipment, labor and materials, and in order to expand the city sewer system and to best serve the citizens of Tontitown. Therefore, it is declared that an emergency exists and that this ordinance, being necessary for immediate service, shall be in force and take effect immediately from and after its passage, approval, and publication.

**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**APPROVED:**

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

**ATTEST:**

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

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE EXECUTION OF A MASTER EQUIPMENT LEASE PURCHASE AGREEMENT WITH COMMUNITY FIRST NATIONAL BANK; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Tontitown, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") to enter into a lease purchase agreement for the purpose of acquiring tangible personal property having an expected useful life of more than one (1) year; and

WHEREAS, the City proposes to acquire a fire truck (the "Equipment"); and

WHEREAS, it is proposed that the City enter into a Master Equipment Lease Purchase Agreement with Community First National Bank (the "Lessor") under Amendment No. 78 and the Authorizing Legislation (the "Lease") for the purpose of financing the acquisition of the Equipment;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Tontitown, Arkansas:

Section 1. The City Council hereby finds that the Equipment will have a useful life of more than one (1) year and that the aggregate principal amount of the Lease and any other obligations incurred under Amendment No. 78 and the Authorizing Legislation does not exceed five (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment.

Section 2. The Lease is hereby authorized and shall be in substantially the form submitted to this meeting with such changes as shall be approved by the Mayor, his execution to constitute conclusive evidence of such approval. The expiration date of the Lease shall be five years after the commencement date, unless earlier terminated in accordance with the Lease. The commencement date for the Lease shall be the date that the Lease is executed by the Mayor, or such other later date as is mutually agreed upon. The principal portion of the Lease shall be \$230,000. Interest shall accrue at the rate of 2.62% per annum. Annual principal and interest payments of approximately \$49,683.63 shall be made to the Lessor on the first, second, third and fourth anniversaries of the commencement date with the remaining principal and interest due on the expiration date of the Lease.

Section 3. As provided in Amendment No. 78, the principal and interest payments on the Lease in each fiscal year (the "Payments") shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the Payments, there is hereby appropriated to pay the Lease, an amount of general revenues of the City sufficient for such purposes. The City Clerk-Treasurer is hereby authorized and directed to withdraw from general revenues of the City the amounts and at the times necessary to make the Payments in accordance with the Lease.

Section 4. (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest portion of the Lease to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants that the proceeds of the Lease will not be used directly or indirectly in such manner as to cause the Lease to be treated as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) The City represents that it will not use or permit the use of the Equipment or the proceeds of the Lease, in such manner as to cause the Lease to be a "private activity bond" within the meaning of Section 141 of the Code. In this regard, the City covenants that (i) it will not use (directly or indirectly) the proceeds of the Lease to make or finance loans to any person, and (ii) that while the Lease is outstanding the Equipment will only be used by state and local governmental entities and by other persons on a basis as members of the general public.

(c) The Lease is hereby designated as a "qualified tax exempt obligation" within the meaning of the Code. The City represents that the aggregate principal amount of its qualified tax exempt obligations (excluding "private activity bonds" within the meaning of Section 141 of the Code which are not "qualified 501(c)(3) bonds" within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in calendar year 2021 will not exceed \$10,000,000.

(d) The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the commencement date of the Lease occurs, a statement concerning the Lease which contains the information required by Section 149(e) of the Code.

(e) The City covenants that it will not reimburse itself from proceeds of the Lease for any costs paid prior to the commencement date of the Lease except in compliance with United States Treasury Regulation §1.150-2 (the "Regulation"). This Ordinance shall constitute an "official intent" for purposes of the Regulation.

(f) The City expects to spend all proceeds of the Lease within six months of the commencement date of the Lease.

Section 5. The Mayor, for and on behalf of the City, is hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Lease and the performance of all obligations of the City thereunder, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk-Treasurer are hereby further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 6. The City Clerk-Treasurer is hereby authorized and directed to file in the office of the City Clerk-Treasurer, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person, a copy of the Lease and such document shall be on file for inspection by any interested person.

Section 7. The provisions of this Ordinance are hereby declared to be separable, and if any article, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the articles, phrases and provisions.

Section 8. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: \_\_\_\_\_, 2021

APPROVED:

ATTEST:

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

\_\_\_\_\_  
Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)



CERTIFICATE

The undersigned, City Clerk-Treasurer of the City of Tontitown, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. \_\_\_\_\_, adopted at a \_\_\_\_\_ session of the City Council at \_\_\_\_\_ p.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_, Page \_\_\_\_\_, now in my possession.

GIVEN under my hand and seal on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

RESOLUTION NO. 2021-\_\_\_\_\_

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**A RESOLUTION AUTHORIZING THE MAYOR OF TONTITOWN TO APPLY FOR A GRANT ON BEHALF OF THE CITY OF TONTITOWN FOR SAFETY IMPROVEMENTS TO THE BASEBALL FIELD AT HARRY SBANOTTO PARK**

**Whereas**, the Tontitown City Council has determined that Tontitown meets eligibility requirements necessary to apply for a grant under the Arkansas Rural Community Grant Programs, and;

**Whereas**, the Mayor has presented plans to improve the safety of the baseball field at Harry Sbanotto Park, and;

**Whereas**, the City Council of Tontitown recognizes the need for the project, concurs its importance, and supports the improvement of safety at the baseball fields and the Mayor in his efforts to proceed with the same, and;

**Whereas**, the City of Tontitown agrees to match the grant with cash if awarded;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the city of Tontitown, Arkansas:

**Section 1:** That the Mayor of Tontitown is hereby authorized to submit an application of formal request to the Arkansas Rural Development Commission for purpose of securing state grant funds in the amount of \$15,000 to aid and assist in the safety improvements for the baseball field at Harry Sbanotto Park in executing the proposed project described herein

**Section 2:** That the City Council of Tontitown hereby appropriates a sum of \$15,000 to complete the local match money requirement for the project described herein;

**Section 2:** That the Mayor of Tontitown is further authorized to administer the grant funds for the same project.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

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

ATTEST:

\_\_\_\_\_  
Rhonda Ardemagni, Clerk-Treasurer

**RESOLUTION NO. 2021-\_\_\_\_\_**

**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**A RESOLUTION AUTHORIZING THE EXECUTION OF A REAL ESTATE CONTRACT FOR THE PURCHASE OF REAL PROPERTY LOCATED IN THE CITY OF TONTITOWN AT THE ADDRESS 199 BANDINI DRIVE, SPRINGDALE, ARKANSAS**

**WHEREAS**, the City of Tontitown has entered into a Real Estate Contract, attached hereto as Exhibit "A", for the purchase of certain real property located in the City of Tontitown at 199 Bandini, Springdale Arkansas (Parcel No. 830-37552-001) with the express contingency that the Real Estate Contract requires the approval of the Tontitown City Council within ten (10) of the date of the Real Estate Contract; and

**WHEREAS**, the Mayor and the City Council, after thorough consideration believe that it is in the best interest of the citizens of the City of Tontitown to authorize, approve and ratify the execution of this Real Estate Contract.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Tontitown as follows:

**Section 1:** That the City Council hereby authorizes, approves and ratifies the Real Estate Contract and for the purchase of real property attached hereto as Exhibit "A", with such changes as many be deemed necessary and all further action which may be necessary in order to carry out and perform the purposes and intents of this Resolution and all actions taken by the Mayor in connection therewith are hereby approved.

**PASSED AND APPROVED** this \_\_\_\_\_ day \_\_\_\_\_, 2021.

**APPROVED:**

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

**ATTEST:**

\_\_\_\_\_  
JENNIFER ALLEN, Clerk-Treasurer  
(SEAL)

# Real Estate Contract (Commercial)

Page 1 of 12

Realty  
& Auction



Copyright  
2021  
Arkansas  
**REALTORS<sup>®</sup>**  
Association

FORM SERIAL NUMBER: 060631-200161-4347702

1. PARTIES: City of Tontitown and or assigns

(individually, or collectively, the "Buyer") offers to purchase, subject to the terms and conditions set forth herein, from LRB Enterprises LLC

(individually or collectively, the "Seller"), the real property described in Paragraph 2 of this Real Estate Contract (the "Property").

## 2. ADDRESS AND LEGAL DESCRIPTION:

A. ADDRESS: 199 Bandini Springdale AR

B. FULL LEGAL DESCRIPTION: Parcel ID 830-37552-001

See Washington County tax records for complete legal description.

3. PURCHASE PRICE: Buyer shall pay the following to Seller for the Property (the "Purchase Price")

\$385,000.00 payable as follows:

Cash



# Real Estate Contract (Commercial)



Copyright  
2021  
Arkansas  
REALTORS™  
Association

Page 2 of 12

FORM SERIAL NUMBER: 060631-200161-4347702

**4. CONVEYANCE:** Unless otherwise specified, conveyance of the Property shall be made to Buyer by ☒ general warranty deed ☐ special warranty deed, in fee simple absolute, except it shall be subject to recorded instruments and easements if any, which do not materially affect the value of the Property. Unless expressly reserved herein, **SUCH CONVEYANCE SHALL INCLUDE ALL MINERAL RIGHTS OWNED BY SELLER CONCERNING AND LOCATED ON THE PROPERTY, IF ANY, UNLESS OTHERWISE SPECIFIED IN PARAGRAPH 17. IT IS THE RESPONSIBILITY OF THE BUYER TO INDEPENDENTLY VERIFY AND INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF MINERAL RIGHTS AND ANY LEGAL RAMIFICATIONS THEREOF.** Seller warrants and represents only signatures set forth below are required to transfer legal title to the Property. Seller also warrants and represents that Seller has peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient general warranty deed, free from any liens, leaseholds or other interests.

**5. TITLE INSURANCE:** Buyer and Seller understand that Listing Firm and Selling Firm are not licensed title insurance agents as defined by Arkansas law and do not and cannot receive direct or indirect compensation from any Closing Agent regarding the closing process or the possible purchase of title insurance by one or more of Buyer and Seller. Regardless of the policy chosen, Buyer and Seller shall have the right to choose their Closing Agent(s). Within 30 days of acceptance, Seller shall furnish to Buyer a commitment for an American Land Title Association (ALTA) owner's title insurance policy in the amount of the Purchase Price issued by a company of Seller's choice authorized to insure title to real property in the State of Arkansas and which company is reasonably acceptable to Buyer.

Where the title commitment shows special exceptions to title other than those standard exceptions contained in the ALTA commitment form, and where such special exceptions relate to restrictions, conditions, defects or other matters that would interfere with Buyer's use or adversely affect the value of the Property, then within 10 days of delivery of the title commitment, Buyer shall deliver written notice thereof to Seller. Such notice shall state specifically those exceptions to which Buyer objects. All objections not specifically enumerated within such a timely delivered notice shall be deemed to be waived by Buyer.

Within 10 days of Buyer's delivery of notice of objections to Seller, Seller may cure such objections or have the exceptions waived or removed by the title company issuing the commitment. If, within such 10 day period, Seller fails to cure and/or waive such objections and exceptions, or within that period, Seller delivers written notice to Buyer that it will not so cure, then within 20 days from delivery of such notice from Seller or the end of the period within which Seller may cure (whichever is applicable), Buyer shall have the option to:

- A. Terminate this Real Estate Contract by delivering written notice thereof to Seller, in which event all sums paid or deposited by Buyer shall be returned to Buyer; or
- B. Agree to purchase the Property as scheduled subject to such objections and exceptions with no reduction in the Purchase Price; or
- C. Agree to extend the Closing date for 45 days to give Seller additional time to cure such objections. If Buyer fails to deliver notice of termination or grant an extension of the Closing date within that period, the objections shall be deemed to be waived and the transaction shall close as scheduled.

Seller shall furnish the committed owner's title insurance policy as soon as practicable after Closing, and shall pay all expenses related to the owner's title insurance policy.

# Real Estate Contract (Commercial)



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**6. NON-REFUNDABLE DEPOSIT:** The Non-Refundable Deposit (hereinafter referred to as "Deposit") is funds tendered by Buyer to Seller to compensate Seller for liquidated damages that may be incurred by Seller resulting from Buyer failing to close on this transaction. The liquidated damages shall include, but not be limited to, Seller's time, efforts, expenses and potential loss of marketing due to Seller's removal of property from the market.

The Deposit is not refundable to Buyer unless failure to close is exclusively the fault of Seller or if Seller cannot deliver marketable title to the Property. Paragraphs that constitute exclusive fault of the Seller include, but are not limited to, Paragraphs 5, 8, 11, 13B, 15B, 17, 18 or 20, as a termination pursuant to each of the listed paragraphs would cause Seller to forfeit the Deposit back to Buyer. The Deposit will be credited to Buyer at Closing. Buyer shall hold Listing Firm and Selling Firm harmless of any dispute regarding the Deposit. Buyer expressly acknowledges the Deposit is not to be held by either Listing Firm or Selling Firm. The Deposit may be commingled with other monies of Seller, such sum not being held in an escrow, trust or similar account.

☒ **A.** The Deposit is not applicable.

☐ **B.** Buyer will pay to Seller the Deposit in the amount of \$\_\_\_\_\_

☐ i. Within \_\_\_\_\_ days following the date this Real Estate Contract has been signed by Buyer and Seller

☐ ii. Within three (3) business days following agreement to repairs on Inspection Repair & Survey Addendum; or

☐ iii. Other: \_\_\_\_\_

**7. EARNEST MONEY:** Earnest money is in the amount of \$\_\_\_\_\_ ("Earnest Money"), which shall apply toward Buyer's Purchase Price or Closing Costs. If at least one or more of the conditions of Paragraphs 5, 13B, and 20 (if any) have not been fulfilled, performed or removed, Earnest Money shall be promptly refunded to Buyer. If Buyer fails to fulfill his obligations under this Real Estate Contract, or if after all conditions have been met Buyer fails to close this transaction, Earnest Money may, at the sole and exclusive option of Seller, be retained by Seller as liquidated damages. Alternatively, Seller may return Earnest Money and assert all legal or equitable rights that may exist as a result of Buyer breaching this Real Estate Contract. Buyer warrants, represents and acknowledges that the check tendered will be honored upon presentation to Buyer's bank, and that Buyer shall be in default of this Real Estate Contract if the check is not honored upon first presentation to Buyer's bank. Buyer understands that failure to tender Earnest Money as required by this Paragraph 7 shall constitute a breach of this Real Estate Contract. Buyer and Seller agree that in the event of any dispute concerning entitlement to Earnest Money, Listing Firm may interplead Earnest Money into a court of competent jurisdiction, and upon such interpleading of Earnest Money, both Listing Firm and Selling Firm shall be released from liability to Buyer and Seller. Listing Firm shall be reimbursed for all costs and attorney's fees from the funds entered for interpleading.

☐ **A.** Earnest Money is tendered by Buyer in the form of ☐ cash ☐ check. If Earnest Money is tendered by check, it will be made payable to ☐ Listing Firm, ☐ Closing Agent \_\_\_\_\_ ☐ Other \_\_\_\_\_. Earnest Money will be deposited by Listing Firm no later than three (3) business days following the date this Real Estate Contract has been signed by Buyer and Seller.

☐ **B.** Earnest Money will be tendered by Buyer in the form of ☐ cash ☐ check. If Earnest Money is tendered by check, it will be made payable to ☐ Listing Firm, ☐ Closing Agent \_\_\_\_\_ ☐ Other \_\_\_\_\_. Earnest Money will be deposited within three (3) business days following the date this Real Estate Contract has been signed by Buyer and Seller. (If Earnest Money is not to be tendered within three (3) business days after this Real Estate Contract has been signed by Buyer and Seller, see Paragraph 17.)

☒ **C.** No Earnest Money will be tendered. References to Earnest Money in this Real Estate Contract shall not be applicable and are deemed deleted.

The principal broker shall also be responsible and accountable for any funds delivered to an escrow agent selected by the principal broker, but shall not be responsible for funds delivered to an escrow agent selected by the parties.

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**8. SURVEY:** Buyer has been given the opportunity to obtain a new certified survey. Should Buyer decline to obtain a survey as offered in Paragraph 8A of this Real Estate Contract, Buyer agrees to hold Seller, Listing Firm and Selling Firm involved in this Real Estate Contract harmless of any problems relative to any survey discrepancies that may exist or be discovered (or occur) after Closing.

☐ **A.** A new survey satisfactory to Buyer, certified to Buyer within thirty (30) days prior to Closing by a registered land surveyor,

☐ showing property lines only ☐ ALTA Certified Survey

☐ showing all improvements, easements and any encroachments will be provided and paid for by:

☐ Buyer ☐ Seller ☐ Equally split between Buyer and Seller.

☒ **B.** No survey shall be provided.

☐ **C.** Other \_\_\_\_\_

Specific Survey Requirements: \_\_\_\_\_

**Should Buyer agree to accept the most recent survey provided by Seller, this survey is for information purposes only and Buyer will not be entitled to the legal benefits of a survey certified in Buyer's name.**

**9. PRORATIONS:** Taxes and special assessments due on or before Closing shall be paid by Seller. Any deposits on rental Property are to be transferred to Buyer at Closing. Insurance, general taxes and special assessments, rental payments and interest on any assumed loans shall be prorated as of Closing, unless otherwise specified herein.

**10. FIXTURES AND ATTACHED EQUIPMENT:** Unless specifically excluded herein, all fixtures and attached equipment, if any, are included in the Purchase Price. If any personal property is included in the Purchase Price it will be described in a separate exhibit attached hereto and incorporated by reference herein (hereinafter referred to as the "Personal Property"). The Personal Property does not include any software or related materials that Seller does not have the legal right to transfer or license to Buyer, and does not include any items leased to Seller under any operating contract. Seller agrees to execute a Bill of Sale at Closing transferring ownership of the Personal Property to Buyer.



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**11. CLOSING:** Closing is the date and time at which Seller delivers the executed and acknowledged deed. Buyer and Seller agree the Closing date will be (month) April (day) 30, (year) 2021. The Closing date may be changed by written agreement of Buyer and Seller. If the sale is not consummated by Closing date (or any written extension thereof) the parties shall have the remedies available to them in equity or at law, including the remedies available to them in Paragraph 7.

Buyer and Seller shall have the right to choose their Closing Agent(s) and are not relying on Listing Firm or Selling Firm to choose a Closing Agent. Should Buyer or Seller choose the services of a Closing Agent(s) other than Selling Firm or Listing Firm, then Buyer and Seller each jointly and severally agree to indemnify and hold Listing Firm and Selling Firm harmless for all intentional misconduct and negligent acts (including acts of omission) of the Closing Agent(s).

This Real Estate Contract shall serve as written closing instructions to the Closing Agent on behalf of the Buyer and Seller. The Closing Agent(s) is/are authorized to provide Seller's settlement statement to Listing Firm (in addition to Seller) and Buyer's settlement statement to Selling Firm (in addition to Buyer) prior to settlement so that Buyer, Seller, Listing Firm and Selling Firm shall have a reasonable opportunity to review prior to Closing.

Buyer and Seller shall each have the right to request title insurer(s), if any, issue closing protection, to indemnify against loss of closing funds because of acts of a Closing Agent, title insurer's named employee, or title insurance agent. Any cost for closing protection will be paid by the requesting party(ies). Listing Firm and Selling Firm strongly advise Buyer and Seller to inquire of the Closing Agent(s) about the availability and benefits of closing protection.

**Unless otherwise agreed by Buyer and Seller, transaction costs will be paid by the party indicated below.**

<u>Seller</u>	<u>Buyer</u>
Title Examination or search fees	Recording fees
Premium for owner's title insurance policy	Premium for mortgagee's title insurance policy
Preparation of conveyance documents	Preparation of loan documents
One-half of escrow fees	One-half of escrow fees
One-half of documentary stamps	One-half of documentary stamps
Other charges as customarily paid by Seller	Other charges customarily paid by Buyer
IRS Notification form	

This Real Estate Contract shall, unless otherwise specified in Paragraph 17 of this Real Estate Contract, constitute express written permission and authorization to Listing Firm and Selling Firm to disclose the terms of this Real Estate Contract (and all Addenda), including without limitation concessions provided by Buyer or Seller or other non-public personal information of Buyer and Seller regarding the purchase and sale of the Property, to any of the following: (i) an Arkansas licensed appraiser; (ii) multiple listing services for use by the members thereof; and (iii) any other person or entity which Listing Firm or Selling Firm determines, using sole discretion, may have a legitimate basis to request and obtain such information. The authorization and permissions granted in this Paragraph 11 shall not create any obligation or duty upon Listing Firm or Selling Firm to make any disclosure to any person or entity.



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**12. POSSESSION:** Possession of the Property shall be delivered to Buyer: (Check one)

- ☒ **A.** Upon the Closing (Seller's delivery of executed and acknowledged Deed).
- ☐ **B.** Other, as follows: \_\_\_\_\_

**13. SELLER PROPERTY DISCLOSURE:** (Check one)

- ☐ **A.** Buyer and Seller acknowledge that upon the authorization of Seller either Selling Firm or Listing Firm have delivered to Buyer, prior to the execution of this Real Estate Contract, a written disclosure prepared by Seller concerning the condition of the Property, but this fact neither limits nor restricts Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract. The written disclosure prepared by Seller is dated (month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, and is warranted by Seller to be the latest disclosure and the answers contained in the disclosure are warranted to be true, correct, and complete to Seller's knowledge.
- ☐ **B.** Buyer hereby requests Seller to provide a written disclosure about the condition of the Property that is true and correct to Seller's knowledge within three (3) business days after this Real Estate Contract has been signed by Buyer and Seller. If Seller does not provide the disclosure within the three (3) business days, Buyer may declare this Real Estate Contract terminated with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money. If Buyer finds the disclosure unacceptable within three (3) business days after receipt of disclosure, this Real Estate Contract may be declared terminated by Buyer, with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money. Receipt of this disclosure neither limits nor restricts in any way Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract.
- ☒ **C.** Although a disclosure form may have been completed (or can be completed) by Seller, Buyer has neither received nor requested and does not desire from Seller a written disclosure concerning the condition of the Property prior to the execution of this Real Estate Contract, but this fact neither limits nor restricts in any way Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract. **BUYER IS STRONGLY URGED BY SELLING FIRM AND LISTING FIRM TO MAKE ALL INDEPENDENT INSPECTIONS DEEMED NECESSARY PRIOR TO SIGNING THIS REAL ESTATE CONTRACT.**
- ☐ **D.** Buyer understands no disclosure form is available and will not be provided by Seller. **BUYER IS STRONGLY URGED BY SELLING FIRM AND LISTING FIRM TO MAKE ALL INDEPENDENT INSPECTIONS DEEMED NECESSARY PRIOR TO SIGNING THIS REAL ESTATE CONTRACT.**

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**14. ENVIRONMENTAL REPRESENTATION:** Seller hereby represents to Buyer that to Seller's knowledge (unless otherwise disclosed herein):

- A. The Property is not the subject of any judicial or administrative notice or action relating to hazardous waste or environmental contamination;
- B. Seller has received no notice of any claim or violation of any law or regulation having to do with environmental protection;
- C. No hazardous or toxic substances have been stored, processed, or disposed of on the Property during the period that Seller has owned the Property; and
- D. No underground storage tanks are located on the Property.

**15. TERMITE CONTROL REQUIREMENTS:** (Check one)

- ☒ A. None
- ☐ B. Seller shall provide prior to Closing, at Seller's expense, a current termite control policy issued by a licensed operator, satisfactory to Buyer.

**16. BUYER'S DISCLAIMER OF RELIANCE:**

A. BUYER CERTIFIES BUYER WILL PERSONALLY INSPECT OR HAVE A REPRESENTATIVE INSPECT THE PROPERTY AS FULLY AS DESIRED PRIOR TO CLOSING. BUYER CERTIFIES BUYER HAS NOT AND WILL NOT RELY ON ANY WARRANTIES, REPRESENTATIONS, OR STATEMENTS OF SELLER, LISTING FIRM, SELLING FIRM, OR ANY AGENT, INDEPENDENT CONTRACTOR, OR EMPLOYEE ASSOCIATED WITH THOSE ENTITIES, OR INFORMATION FROM MULTIPLE LISTING SERVICES OR OTHER WEBSITES REGARDING MINERAL RIGHTS, YEAR BUILT, SIZE (INCLUDING WITHOUT LIMITATION THE SQUARE FEET IN IMPROVEMENTS LOCATED ON THE PROPERTY), QUALITY, VALUE OR CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION ALL IMPROVEMENTS, APPLIANCES, PLUMBING, ELECTRICAL OR MECHANICAL SYSTEMS. HOWEVER, BUYER MAY RELY UPON ANY WRITTEN DISCLOSURES PROVIDED BY SELLER.

LISTING FIRM AND SELLING FIRM CANNOT GIVE LEGAL ADVICE TO BUYER OR SELLER. LISTING FIRM AND SELLING FIRM STRONGLY URGE STATUS OF TITLE TO THE PROPERTY, CONDITION OF PROPERTY, SQUARE FOOTAGE OF IMPROVEMENTS, QUESTIONS OF SURVEY AND ALL OTHER REQUIREMENTS OF BUYER SHOULD EACH BE INDEPENDENTLY VERIFIED AND INVESTIGATED BY BUYER OR A REPRESENTATIVE CHOSEN BY BUYER.

B. IN THE EVENT THAT THE INSPECTION, REPAIR AND SURVEY ADDENDUM IS USED, BUYER AGREES TO SIGN PAGE 4 OF THE INSPECTION, REPAIR AND SURVEY ADDENDUM PRIOR TO CLOSING IF BUYER ACCEPTS THE CONDITION OF THE PROPERTY AND INTENDS TO CLOSE.

**17. OTHER:**

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**18. CONTINGENCIES:** Buyer's offer to purchase the Property is expressly contingent upon Buyer's satisfaction of the contingencies checked below within the deadline indicated for each contingency. Buyer shall notify Seller in writing when the contingencies are satisfied. If Buyer fails to provide such written notice before the indicated deadline that a contingency checked below has been satisfied, then this Real Estate Contract shall be terminated with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money and Buyer and Seller shall have no further obligation to each other unless otherwise provided in this Real Estate Contract.

Contingencies (check all that apply):

- ☐ A. Obtain satisfactory financing, in Buyer's sole discretion, within \_\_\_\_\_ days after acceptance.
- ☐ B. Obtain satisfactory results of a feasibility study, in Buyer's sole discretion, within \_\_\_\_\_ days after acceptance.
- ☐ C. Obtain satisfactory results of a Property inspection, in Buyer's sole discretion, within \_\_\_\_\_ days after acceptance.
- ☐ D. Obtain satisfactory results of an environmental report, in Buyer's sole discretion, within \_\_\_\_\_ days after acceptance.
- ☐ E. Obtain satisfactory rezoning, platting, re-platting, or zoning verification, in Buyer's sole discretion, within \_\_\_\_\_ days after acceptance.
- ☒ F. Obtain City of Tontitown City Council approval  
within 10 days after acceptance.
- ☒ G. Obtain a satisfactory appraisal with the property valued at \$385,000  
within 30 days after acceptance.
- ☐ H. \_\_\_\_\_  
within \_\_\_\_\_ days after acceptance.

Additional requirements related to any of above contingencies:

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**Seller agrees to have all utilities connected and turned on to Property.**

Sellers hereby grant to Buyer, its agents and contractors, the right to enter upon the Property to make tests and/or inspections. If the Property is damaged by Buyer or Buyer's agents or contractors during Buyer's inspections or test of the Property, Buyer shall repair and restore the Property to substantially the same condition as existed prior to conducting the inspection and test. Buyer shall indemnify Seller and its agents and hold them harmless from any and all liability, damages, claims, expenses, including reasonable attorney's fees, judgments, proceedings and causes of action of any kind to the extent caused by Buyer's inspection and testing activities with such indemnity obligation expressly surviving Closing or termination of the Real Estate Contract for any reason.

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**19. AGENCY:** (Check all that apply)

- ☐ **A. LISTING FIRM AND SELLING FIRM REPRESENT SELLER:** Buyer acknowledges that Listing Firm and Selling Firm and all licensees associated with those entities are the agents of Seller and that it is Seller who employed them, whom they represent, and to whom they are responsible. Buyer acknowledges that before eliciting or receiving confidential information from Buyer, Selling Firm, which may be the same as Listing Firm, verbally disclosed that Selling Firm represents Seller.
- ☐ **B. LISTING FIRM REPRESENTS SELLER AND SELLING FIRM REPRESENTS BUYER:** Buyer and Seller acknowledge that Listing Firm is employed by Seller and Selling Firm is employed by Buyer. All licensees associated with Listing Firm are employed by, represent, and are responsible to Seller. All licensees associated with Selling Firm are employed by, represent, and are responsible to Buyer. Buyer acknowledges Selling Firm verbally disclosed that Listing Firm represents Seller. Seller acknowledges Listing Firm verbally disclosed that Selling Firm represents Buyer.
- ☐ **C. LISTING FIRM AND SELLING FIRM ARE THE SAME AND REPRESENT BOTH BUYER AND SELLER:** Seller and Buyer hereby acknowledge and agree that Listing and Selling Firm are the same and all licensees associated with Listing and Selling Firm are representing both Buyer and Seller in the purchase and sale of the above referenced Property and that Listing/Selling Firm has been and is now the agent of both Seller and Buyer with respect to this transaction. Seller and Buyer have both consented to and hereby confirm their consent to agency representation of both parties. Further, Seller and Buyer agree:
- (i) Listing/Selling Firm shall not be required to and shall not disclose to either Buyer or Seller any personal, financial or other confidential information concerning the other party without the express written consent of that party; however, Buyer and Seller agree Listing/Selling Firm shall disclose to Buyer information known to Listing/Selling Firm related to defects in the Property and such information shall not be deemed "confidential information." Confidential information shall include but not be limited to any price Seller is willing to accept that is less than the offering price or any price Buyer is willing to pay that is higher than that offered in writing.
  - (ii) by selecting this option 19C, Buyer and Seller acknowledge that when Listing/Selling Firm represents both parties, a possible conflict of interest exists, and Seller and Buyer further agree to forfeit their individual right to receive the undivided loyalty of Listing/Selling Firm.
  - (iii) to waive any claim now or hereafter arising out of any conflicts of interest from Listing/Selling Firm representing both parties. Buyer and Seller acknowledge Listing/Selling Firm verbally disclosed that Listing/Selling Firm represents both parties in this transaction, and Buyer and Seller have given their written consent to this representation before entering into this Real Estate Contract.
- ☒ **D. SELLING FIRM REPRESENTS BUYER (NO LISTING FIRM):** Seller acknowledges that Selling Firm and all licensees associated with Selling Firm are the agents of Buyer and that it is Buyer who employed them, whom they represent, and to whom they are responsible. Seller acknowledges that at first contact, Selling Firm verbally disclosed that Selling Firm represents Buyer. Any reference to "Listing Firm" in this Real Estate Contract will be considered to mean Selling Firm, both Buyer and Seller acknowledging that all real estate agents (unless Seller is a licensed Real Estate Agent) involved in this Real Estate Contract only represent Buyer.
- ☐ **E. NON-REPRESENTATION:** See attached Non-Representation Disclosure Addendum. If item E is checked it should be accompanied by a corresponding entry to Paragraph 32 B or C.

**20. RISK OF LOSS:** Risk of loss or damage to the Property by fire or other casualty occurring prior to the time Seller delivers an executed and acknowledged deed to Buyer is expressly assumed by Seller. Should the Property be damaged or destroyed prior to Closing, Buyer shall have the option to: (i) enter into a separate written agreement with Seller whereby Seller will agree to restore the Property to its condition at the time this Real Estate Contract was accepted, (ii) accept all insurance proceeds (in an amount not more than the Purchase Price with any proceeds in excess of the Purchase Price to remain the property of Seller) and the Property in its existing condition, or (iii) terminate this Real Estate Contract and recover the Earnest Money. Buyer and Seller agree any written agreement concerning option (i) or (ii) above shall be prepared only by licensed attorneys separately representing Buyer and Seller. Notwithstanding the choice selected in Paragraph 16, Buyer shall have the right prior to Closing to inspect the Property to ascertain any damage that may have occurred due to fire, flood, hail, windstorm or other acts of nature, vandalism or theft.

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- 21. GOVERNING LAW:** This Real Estate Contract shall be governed by the laws of the State of Arkansas.
- 22. SEVERABILITY:** The invalidity or unenforceability of any provisions of this Real Estate Contract shall not affect the validity or enforceability of any other provision of this Real Estate Contract, which shall remain in full force and effect.
- 23. MERGER CLAUSE:** This Real Estate Contract, when executed by both Buyer and Seller, shall contain the entire understanding and agreement between Buyer and Seller with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters. This Real Estate Contract shall not supersede any agency agreements entered into by Buyer or Seller and Listing Firm or Selling Firm.
- 24. ASSIGNMENT:** This Real Estate Contract may not be assigned by Buyer unless written consent of Seller is obtained, such consent not to be unreasonably withheld. It shall not be unreasonable for Seller to withhold consent if Seller is to provide financing for Buyer in any amount.
- 25. ACCEPTANCE:** The term "acceptance" as used herein shall mean the later of the two dates on which this Real Estate Contract is signed by Seller or Buyer, as indicated by their signatures below, which later date shall be the date of final execution and agreement by the parties hereto. If any date or deadline provided for herein falls on Saturday, Sunday, or a holiday, the applicable date shall be the next business day.
- 26. TIME:** Buyer and Seller agree time is of the essence with regard to all times and dates set forth in this Real Estate Contract. Unless otherwise specified, days as it appears in this Real Estate Contract shall mean calendar days. Further, all times and dates set forth in this Real Estate Contract refer to Arkansas Central time and date.
- 27. ATTORNEY'S FEES:** Should Buyer or Seller initiate any type of administrative proceeding, arbitration, mediation or litigation against the other (or against an agent for the initiating party or agent for the non-initiating party), it is agreed by Buyer and Seller (aforementioned agents being third-party beneficiaries of this Paragraph 27) that all prevailing parties shall be entitled to an award of all costs and attorney's fees incurred in defense of such initiated action against the non-prevailing party.
- 28. COUNTERPARTS:** This Real Estate Contract may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same. Electronic signatures shall be deemed original signatures and shall be binding upon the parties.
- 29. FIRPTA COMPLIANCE, TAX REPORTING:** Buyer and Seller agree to disclose on or before Closing, to the person or company acting as Closing Agent for this transaction, their United States citizenship status, solely for the purpose of compliance with the Foreign Investment in Real Property Taxation Act (FIRPTA). In addition, Buyer and Seller shall execute all documents required by such Closing Agent to document compliance with the FIRPTA and all other applicable laws. Buyer and Seller agree that nothing in this Real Estate Contract is intended to limit the responsibility of the Closing Agent as defined pursuant to United States Treasury Regulation 1.6045-4) to (i) be the "reporting person" under state and federal tax laws (including without limitation 26 USC Section 6045(e)), and (ii) file all necessary forms regarding the Closing, including without limitation form 1099, 8288 or 8288A. By accepting the role as Closing Agent, this Real Estate Contract shall obligate the Closing Agent to fulfill their responsibilities as set forth above and as defined by the above statutes. Seller will execute an affidavit confirming compliance with FIRPTA, as prepared by the Closing Agent.

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**30. NOTICE:** All notices, requests and other communications under this Agreement shall be in writing and shall be delivered in person, or sent by overnight courier or certified mail, return receipt requested, addressed as follows:

If to Seller: \_\_\_\_\_

\_\_\_\_\_

With a copy to: \_\_\_\_\_

\_\_\_\_\_

If to Buyer: \_\_\_\_\_

\_\_\_\_\_

With a copy to: \_\_\_\_\_

\_\_\_\_\_

Or at such other address, and to the attention of such person, of which the parties shall have given notice as herein provided. All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes hereof on the second day after the date of the mailing thereof or the first day after being sent by overnight courier.

**31. TAX DEFERRED EXCHANGE:** Each party agrees to cooperate with the other, if requested in writing, to effect a tax deferred exchange under the provisions of the Internal Revenue Code of 1986, as amended, provided such exchange is without cost or expense to cooperating party, and the requesting party shall indemnify and hold the other harmless from and against any cost or expense or other liability, tax or action which may be incurred in connection with such exchange.

**32. LICENSEE DISCLOSURE:** (Check all that apply):

☐ A. Not Applicable.

☒ B. One or more parties to this Real Estate Contract acting as a ☒ Buyer ☐ Seller hold a valid Arkansas Real Estate License.

☐ C. One or more owners of any entity acting as ☐ Buyer ☐ Seller hold a valid Arkansas Real Estate License.

**33. EXPIRATION:** This Real Estate Contract expires if not accepted in writing by Seller on or before (month) March (day) 1, (year) 2021, at 4:00 ☐ (a.m.) ☒ (p.m.).

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THIS IS A LEGALLY BINDING REAL ESTATE CONTRACT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. YOU MAY EMPLOY AN ATTORNEY TO DRAFT THIS FORM FOR YOU. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM AND HAVE AUTHORIZED THE REAL ESTATE AGENT(S) TO FILL IN THE BLANKS ON THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS' ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2021.

FORM SERIAL NUMBER: **060631-200161-4347702**

The above Real Estate Contract is executed by Buyer on  
(month) February (day) 26, (year) 2021, at 9:30 ☒ (a.m.) ☐ (p.m.).

Section Management Corp / Block Auction  
Selling Firm

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: Paul Colvin Jr.  
Principal or Executive Broker

Printed Name: City of Tontitown AR  
Buyer

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Selling Agent

Printed Name: \_\_\_\_\_  
Buyer

The above Real Estate Contract is executed by Seller on  
(month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, at \_\_\_\_\_ ☐ (a.m.) ☐ (p.m.).

Listing Firm

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Principal or Executive Broker

Printed Name: \_\_\_\_\_  
Seller

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Listing Agent

Printed Name: \_\_\_\_\_  
Seller

The above offer was ☐ rejected ☐ counter offered (Form Serial Number \_\_\_\_\_)

☐ Buyer informed of Notification of Existing Real Estate Contract Addendum  
(Form Serial Number \_\_\_\_\_)

on (month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, at \_\_\_\_\_ ☐ (a.m.) ☐ (p.m.).

Seller's Initials

Seller's Initials

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